

## **DEPARTMENT OF HOMELAND SECURITY APPROPRIATIONS FOR FISCAL YEAR 2005**

**TUESDAY, MARCH 30, 2004**

U.S. SENATE,  
SUBCOMMITTEE OF THE COMMITTEE ON APPROPRIATIONS,  
*Washington, DC.*

The subcommittee met at 10 a.m., in room SD-124, Dirksen Senate Office Building, Hon. Thad Cochran (chairman) presiding.

Present: Senators Cochran, Stevens, Shelby, Byrd, Leahy, and Murray.

### **DEPARTMENT OF HOMELAND SECURITY**

#### **STATEMENTS OF:**

**EDUARDO AGUIRRE, JR., DIRECTOR, U.S. CITIZENSHIP AND IMMIGRATION SERVICES**

**ROBERT C. BONNER, COMMISSIONER, BUREAU OF CUSTOMS AND BORDER PROTECTION**

**MICHAEL J. GARCIA, ASSISTANT SECRETARY, BUREAU OF IMMIGRATION AND CUSTOMS ENFORCEMENT**

#### **OPENING STATEMENT OF SENATOR THAD COCHRAN**

Senator COCHRAN. The hearing will please come to order. Today we continue our review of the President's fiscal year 2005 budget request for the Department of Homeland Security. We will specifically consider the request for programs and activities of three of the department's agencies: Citizenship and Immigration Services, Customs and Border Protection, and Immigration and Customs Enforcement.

I am pleased to welcome the Director of Citizenship and Immigration Services, Mr. Eduardo Aguirre; the Commissioner of the Bureau of Customs and Border Protection, Mr. Robert Bonner; and the Assistant Secretary of the Bureau of Immigration and Customs Enforcement, Mr. Michael Garcia. We thank you for submitting copies of your statements in advance of the hearing. These will be made a part of the record. And we invite you each to make any comments you think would be helpful to the committee's understanding of the budget request.

Before asking the witnesses to proceed, however, I am happy to yield to Senator Byrd and other Senators who may wish to make opening statements.

Senator Byrd.

## STATEMENT OF SENATOR ROBERT C. BYRD

Senator BYRD. Thank you, Mr. Chairman, comrades on the committee. You see, I am ahead of everybody else on the Hill. Fifty-one years on the Hill entitles me to call my friends here "comrades."

Welcome to our distinguished witnesses. The men and women under your direction have a great impact on the safety of American citizens, as well as visitors to our country. Secretary Ridge has promoted the concept of one face at the border. And I support that concept. However, I remain concerned that there are real vulnerabilities facing us Nation that require immediate response.

Last December, Secretary Ridge said, "The strategic indicators, including al-Qaeda's continued desire to carry out attacks against our homeland, are perhaps greater now than at any point since September 11." On March 11, terrorists armed with backpacks filled with explosives coordinated an attack that resulted in the deaths of nearly 200 people in Madrid. I would expect that the administration would anticipate these kinds of threats and address such threats with a robust defense.

## REVIEW OF THE PRESIDENT'S BUDGET

Yet, as I review the administration's budget, America's defense is far too reliant on paper, on studies, and on reports, rather than on the layered defense that the President and the Secretary often describe in their homeland security speeches. Let me just give a few examples.

Nearly 9 million commercial containers are brought into this country each year through our ports. Yet, only 5 percent of them are inspected. We have all heard these figures time and time again.

On January 5, 2004, the new visa tracking system, known as US VISIT, began operation at 115 airports and 14 seaports. Customs and Border Protection inspectors are collecting data on visitors entering our country, but the Bush Administration still has no clear plan for confirming who is exiting the United States. We have no way of knowing whether aliens, who are supposed to have left the country, have in fact left the country.

At the same time, we need to ensure that sufficient funds are provided to integrate the various existing biometric databases. We need to make sure that the US VISIT system and the Border Patrol IDENT system are compatible with the FBI's Integrated Automated Fingerprint Identification System. At our March 9 hearing, Secretary Hutchinson attempted to address this issue, but I believe that he fell short in his response.

## NEED FOR INTEGRATED SYSTEMS

We need to have integrated systems that can talk to each other. We must know whether an alien trying to come into this country, or already in this country, has a criminal history. By integrating these systems, CBP would know if an alien is a security risk and could refuse him entry into the country, or remove him from the country, or imprison him. We simply cannot be satisfied with the incompatible systems that result in murderers and other criminals walking through holes in our border security.

## SHORTCOMINGS IN BUDGET REQUEST

The Federal Air Marshal Service does not have sufficient resources this year to maintain the number of air marshals on targeted domestic and international flights. And because the Administration has proposed no increase for next year, a bad problem could become even worse next year.

The President has proposed a sweeping amnesty for people already residing illegally in this country. Yet, the President's budget request includes only modest increases for programs that attempt to cope with our growing illegal alien population, and provides insufficient funds to robustly enforce our existing immigration laws. When I inquired of Secretary Ridge just how he would pay to implement the President's amnesty program, he could not provide an answer.

I want to make sure that this subcommittee and this Congress provide real homeland security to the American people, not just assurances on paper. The President stubbornly has told this agency not to seek supplemental appropriations this year. Just last week we learned that, more than a year after setting up the new department, there still is not a complete accounting of the funds which have been made available for the operation of your agencies.

## HIRING FREEZES

The department has imposed hiring freezes so that the department's accounts, along with its OMB overseers, can audit the books. Air marshals are not being hired. Inspectors at our ports of entry and criminal investigators are not being hired. We are 6 months into the fiscal year. I simply do not understand why the Administration has not proposed a solution to this problem. Homeland security cannot wait.

## THE NATION IS VULNERABLE

I have never claimed to be the Oracle at Delphi, but there are many times these days when I feel like Diogenes. I am looking for an honest man. I am seeking someone who can tell this President that this Nation is vulnerable and that this President leaves us vulnerable for another year.

Time and again, my colleagues and I have tried to provide this department with the additional resources we believe it needs to surely provide security to the homeland. And time and again, this Administration has stiff-armed our efforts, labeling amendments for border security, port security, air cargo security, and rail security as wasteful spending.

## ALLEGED BUDGET SHORTFALL

I hope we can get to the bottom of this alleged budget shortfall for the department quickly. It is a problem not of Congress's making. I will be discussing many of these issues. I appreciate the fine work of our witnesses and the courageous men and women who work for you. I look forward to hearing from you.

Thank you, Mr. Chairman.

Senator COCHRAN. Senator Leahy.

## STATEMENT OF SENATOR PATRICK J. LEAHY

Senator LEAHY. Thank you, Mr. Chairman. I could not help but think as I listened to both your statement and to Senator Byrd's statement, that the witnesses before us this morning all bear great responsibility for keeping our Nation secure. All three of you do. And we all thank you for your service.

## HIRING FREEZES FOR ICE AND CBP

But when we come together here today, I am concerned about the hiring freeze that is in place in part or in all of your agencies. I understand that the Bureau of Immigration and Customs Enforcement, ICE, the Bureau of Customs and Border Protection, CBP, are facing a budget shortfall of more than 12 percent. It is really inexcusable to hear about a hiring freeze in critical national security agencies, especially after the administration has so stridently opposed efforts by Senator Byrd and others, many others, in Congress to make homeland security the priority that it needs in the national budget.

We know full well that the administration budget's priorities ultimately is the White House prerogative and not yours. My criticism is not directed at you. But this morning the American people need to hear an explanation how this could have happened and what this freeze will mean to the missions of your agencies and what is being done in the meantime to protect the security of the American people.

We ask these questions because, as Senator Byrd has pointed out so many times, under the Constitution the question of spending starts here in the Congress, not on the other end of Pennsylvania Avenue. We hold the purse strings.

## LAW ENFORCEMENT TRAINING CENTER IN WILLISTON, VERMONT

Now I am glad that ICE is making increased use of the Law Enforcement Support Center, LESC, in Williston, Vermont. For years the LESC has done an excellent job of providing information to State and local police departments throughout the Nation regarding the immigration status and identities of aliens suspected, arrested, or convicted of criminal activity. I had the pleasure of joining Mr. Garcia there last summer.

I recall at one point during the discussion we were talking to somebody about that it is open 24 hours, 7 days a week. What happened earlier that winter, one time we had a 3-foot snowfall overnight. And this got kind of puzzled looks. Well, everybody came to work, of course. I mean, what else would they do? It was only 3 feet. It kind of screwed up the parking lot, but everybody got to work.

But I think that when it is done, including this work at ICE, Operation Predator, designed to catch sex offenders, I think that is extremely important. But I am also concerned that LESC may not receive the resources its needs to accomplish its additional workload. I hope that will be addressed today.

## TRIPS AROUND THE COUNTRY TO VARIOUS OFFICES

Incidentally, I know all of you make trips around the country to the various departments. Those are meaningful. I mentioned to Mr. Garcia earlier this morning, when I was coming out of mass on Sunday, somebody came up to me and said that they were there when he came through and was delighted that he actually took time and asked them what they do and how they do it, what is involved in their job. I am sure there were a whole lot of other people he asked. But this particular person remembered this. It was almost a year later.

## CIS BUDGET REQUEST CONCERNS

Now turning to Mr. Aguirre's agency, I am concerned about the President's proposed budget for Citizenship and Immigration Services, CIS.. The budget calls for a 40-percent cut in the amount of directly appropriated funds for CIS from the nearly \$235 million appropriated for the current year. They are cutting it, Mr. Chairman, to \$140 million for fiscal year 2005.

Now this cut comes at a time where we are way, way, way far from fulfilling the President's own promise to reduce the average wait time for applicants for immigration benefits to 6 months by 2006. It was a great speech. It was a great promise. I agree with the President entirely. But after making the speech, he did not cut the funds to make sure the promise could be realized.

It also comes at a time when the President has proposed a work-program that would significantly increase the CIS workload. Yet another great speech, a large Hispanic population. But I guess it proved unpopular with some in the President's party, so we have not heard more about it. But we know it is still floating out there.

In fact, I wrote to the President in January. I asked him to submit a legislative proposal to Congress for implementing his plan. He announced it with great fanfare. And I was curious just how it is going to be done. We only have a few real working days left in the Congress this year, and we have yet to receive a response.

## INCREASE CAP FOR THE H2B VISA PROGRAM

I would like to raise one other policy issue while Mr. Aguirre is here. I hope the CIS and the administration as a whole will support bipartisan efforts in Congress to increase the cap for the H2B visa program. Your department recently announced that the statutory cap for this program has already been reached, if I am correct. It is causing tourism-dependent businesses across the country to fear they will be unable to serve their customers this summer.

## PREPARED STATEMENT

I am enjoying with at least 13 of my colleagues, including Senator Stevens, the chairman of the full committee, to introduce S. 2252, the Save Summer Act of 2004. It would increase the cap for the current fiscal year by 40,000. I would urge the administration to support it.

Mr. Chairman, I look forward to the testimony. I thank you for your usual courtesy and giving me a chance to make a comment. [The statement follows:]

## PREPARED STATEMENT OF SENATOR PATRICK J. LEAHY

The witnesses before us this morning all bear great responsibility for keeping our Nation secure, and we thank you for your service. Yet as we come together today, there is a hiring freeze in place at all or part of each of your agencies.

I understand that the Bureau of Immigration and Customs Enforcement (ICE) and the Bureau of Customs and Border Protection (BCBP) are facing a budget shortfall of more than 12 percent. It is outrageous to hear about a hiring freeze in critical national security agencies after the Bush Administration has so stridently opposed attempts by the Ranking Member and many, many others in Congress to make homeland security the priority that it needs to be in the national budget. We know full well that setting the Administration's budget priorities ultimately is the White House's prerogative, and not yours. But this morning the American people need to hear an explanation of how this could have happened, what this freeze will mean to the missions of your agencies, and what is being done in the meantime to protect the security of the American people.

Meanwhile, I am glad that ICE is making increased use of the Law Enforcement Support Center (LESC), in Williston, Vermont. For years, the LESC has done an excellent job of providing information to state and local police departments throughout the nation, regarding the immigration status and identities of aliens suspected, arrested, or convicted of criminal activity. I had the pleasure of joining Mr. Garcia last summer at the LESC to announce an expansion of its role, including its work in ICE's Operation Predator, designed to catch sex offenders. At the same time, I am concerned that the LESC may not receive the resources it needs to accomplish its additional workload. I hope that Mr. Garcia will address those concerns today.

Turning to Mr. Aguirre's agency, I am concerned about the President's proposed budget for Citizenship and Immigration Services (CIS). The budget calls for a 40 percent cut in the amount of directly appropriated funds for CIS, from the nearly \$235 million appropriated for the current year, to \$140 million for fiscal year 2005. This cut comes at a time when we are still far from fulfilling the President's promise to reduce the average wait time for applicants for immigration benefits to 6 months by 2006. It also comes at a time when the President has proposed a guest worker program that would significantly increase the CIS workload. Of course, the guest worker program may have simply fallen off the President's radar screen now that it has proven unpopular with some in his party. I wrote to the President in January and asked him to submit a legislative proposal to Congress for implementing his plan. Despite the ever-shrinking legislative year ahead of us, I have still not received a response.

I would like to raise one other policy issue with Mr. Aguirre while he is here. I hope that CIS and the Administration as a whole will support bipartisan efforts in Congress to increase the cap for the H-2B visa program. Your department recently announced that the statutory cap for this program had already been reached, causing tourism-dependent businesses across the country to fear they will be unable to serve their customers this summer. I have joined with at least 13 of my colleagues—including the Chairman of the full committee—to introduce S. 2252, the Save Summer Act of 2004. This bill would increase the cap for the current fiscal year by 40,000. It is a necessary response to a critical and unexpected problem, and I urge the Administration to support it.

I look forward to hearing your testimony.

Senator COCHRAN. Thank you, Senator.  
Senator Shelby.

## STATEMENT OF SENATOR RICHARD C. SHELBY

Senator SHELBY. Thank you, Mr. Chairman.

First, Mr. Secretary, let me thank you for the bureau's efforts to stop the exploitation of children. I have worked with you and your predecessors for many years to ensure that the people that would take advantage of and seek to prosper from the exploitation of children are prosecuted to the fullest extent of the law. I remain committed to working with you to eliminate the threat to our children.

In addition, I know you have been working with our partners at the National Center for Missing and Exploited Children. Let me encourage you to maintain that partnership. I think it has been

very valuable and it works. The center is an invaluable asset, I think, in our quest to protect our children in America.

#### OPERATION PREDATOR

I understand that Operation Predator is underway. And Senator Leahy alluded to that. I am interested in its progress and what the funding requirements are to maintain this important program in 2005. I am also interested in learning of any additional programs that are dedicated to eliminating crimes against children, I would appreciate it if you would take the time to go over some of these in your testimony or questions.

#### NUMBER OF ILLEGAL ALIENS RESIDING IN THE UNITED STATES

Among your many goals here is the charge to secure our borders, Mr. Director, and to control illegal immigration. I am told that the most current estimates place the number of illegal aliens in our country at over 8 million. I believe it is much more than that.

Gentlemen, what is your best estimate on the number of illegal aliens currently residing in this country? How many new illegal aliens entered the country last year? Is that an increase or a decrease from the previous year? I fear that it is an increase. If we are so uncertain about the numbers, does that not seem to indicate that we are not doing enough to secure our borders and our homeland?

#### OVERSTAYS

Another major problem with our immigration system is the fact that many of these people currently counted as illegals actually entered the country legally, but have overstayed their visas. Do you have any recent numbers on visa overstays, given that this makes up a large part of our illegal population?

Next, what is your agency doing right now, and what are you planning to do in the future, to ensure that this does not continue to be a problem? That is, they get a visa, they come in, they do not go back, and you do not know where they are. There must be a way to keep track of these folks.

#### STEMMING THE FLOW OF ILLEGAL ALIENS INTO THE UNITED STATES

I spent this past week conducting county meetings all over the State of Alabama, my State. Without fail, at every meeting I was asked what the Federal Government was doing to stem the flow of illegal aliens into the United States. Unfortunately, my answer to them was, "obviously not enough."

What is the directorate doing to make our borders more secure and eliminate the influx of illegal aliens in this country? How many aliens have been detained and deported in the last year? I am asking these questions, and I hope you will touch on all of them.

If a Mexican citizen looking for work can pay a fee to a coyote to traverse our border, what is to keep terrorists that will do us harm from doing the same thing? I have been told many times, and I believe it, that rewarding bad behavior only encourages more bad behavior. We learn that as children. Currently, if you break the

law entering the United States, you get a job. Now that is not what the law provides, but it sure seems to be what is happening.

I have serious concerns about the ramification of proposals that sound a lot like the amnesty of 1986. If the current proposals are put into effect, the criminal would not only get a job, but social security and welfare benefits as well. I have been told that the rate of illegal immigration actually increased after the 1986 amnesty. Is there any truth to that statement? Would you agree that we spend too much time and money on the vetting process for those following the paths to legal immigration, and not enough trying to catch those people who are willing to break the law and pay \$50 to be at work in the States in a couple of days. What are we going to do, or what are you going to do, to rectify the problem?

I know I have posed a number of questions here in a short time. And I hope you will address them.

Mr. Chairman, thank you.

Senator COCHRAN. Thank you, Senator.

Senator Murray.

#### STATEMENT OF SENATOR PATTY MURRAY

Senator MURRAY. Thank you, Mr. Chairman. I want to join all of my colleagues in welcoming our witnesses today. You have a tremendous task before you. And I want to thank you for your service.

#### \$1.2 BILLION SHORTFALL CAUSE OF HIRING FREEZE

I became increasingly concerned about the level of the President's budget request when I read that, according to the Wall Street Journal, a \$1.2 billion shortfall has caused a hiring freeze within your agency. So I hope your testimony will clear up whether that is actually a computer glitch or an accounting error resulting from combing budgets from legal agencies or a real budget shortfall that this subcommittee will need to deal with.

#### SECURING LAND AND SEAPORTS-OF-ENTRY

Mr. Chairman, my questions today will focus on the administration's plan for securing our ports of entry, both on land and our seaports. As we all know, many experts in the security arena, including some in your own department, have said that securing cargo coming into this country should be one of our Nation's highest priorities. I could not agree more. We absolutely need a coordinated plan for a nationwide cargo security regime.

#### TURF BATTLES

However, I have been very disappointed with the turf battles that have been going on between Customs, TSA, and the Coast Guard as to who is in charge of cargo security. So I will want to explore with Commissioner Bonner how he plans on working under Secretary Hutchinson to implement each of the Department of Homeland Security's port and security programs into one coordinate regime.



## CUSTOMS OFFICERS

I am also interested to hear how our Customs and Border Protection (CBP) officers are being received overseas and the level of cooperation foreign customs agents are provided within programs like CSI and C-TPAT. I will also have questions about the implementation of security technology, such as radiation portal monitors at our ports of entry.

Mr. Chairman, as always, I look forward to an informative hearing. I will have more specific topics to discuss with our witnesses during the question and answer period.

Thank you very much.

Senator COCHRAN. Thank you, Senator.

Senator STEVENS.

Senator STEVENS. Mr. Chairman, thank you very much. I have come to hear the testimony. No questions.

Senator COCHRAN. Thank you very much, Senator.

We are now ready to proceed. Mr. Aguirre, we will be glad to hear from you any opening statement that you have or comments in explanation of the President's budget request for your agency.

## STATEMENT OF EDUARDO AGUIRRE, JR.

Mr. AGUIRRE. Good morning, Chairman Cochran and Ranking Member Byrd and members of the subcommittee. My name is Eduardo Aguirre. And I have the honor of serving as the first Director of the U.S. Citizenship and Immigration Services within the Department of Homeland Security.

In previous congressional testimony, I have shared my story of having arrived to the United States as a 15-year-old unaccompanied minor from Cuba. My parents sent me here to escape a repressive regime and to experience the freedoms and opportunities found only in America. I became a product of the legal immigration track, the very system that I am now charged with fundamentally transforming.

We are a welcoming . And hard work and patriotism of our immigrants has made our Nation prosperous. We seek to continue to improve the administration of immigration benefits for the more than 6 million applicants who legally petition USCIS every year. Last year, upon creation of the USCIS, a team of 15,000 and I embraced a simple but imperative mission, making certain that the right applicant receives the right benefit in the right amount of time or preventing the wrong individuals from obtaining our benefits.

## THREE PRIORITIES

We established three priorities that guide every aspect of our work: Eliminating the immigration benefit application backlog, improving customer service, while enhancing national security. As we mark our institutional 1-year anniversary, I am particularly pleased with the progress we have made and the professionalism exhibited by our employees day in and day out, while mitigating security threats that we know to be real and relentless.

## ACCOMPLISHMENTS TO DATE

To date, we have initiated online options for two application types, as well as case status updates. And we will be adding six more applications in May, which will account for over 50 percent of our work. We have established the Office of Citizenship. We have eliminated lines at some of our highest volume offices, and much more.

USCIS is one of the largest fee-funded agencies in the Federal Government, charging fees from a variety of benefits from individuals seeking to enter, reside, or work in the United States. Therefore, the actual cash flow for our business operations vary from year to year with the number of immigration benefit applications received.

## BACKLOG REDUCTION

Mr. Chairman, as you know too well, backlogs from immigration benefit applications began to grow during the 1990s, seeing an overall 77-percent increase from fiscal year 1993 to fiscal year 2001. Beginning with fiscal year 2002, President Bush pledged and the Congress supported a multi-year \$500 million initiative to attain the universal 6-month processing time standard by fiscal year 2006 for all immigration benefit applications while providing quality service to all customers.

The President's fiscal year 2005 budget request seeks an additional \$60 million in appropriated funds to boost the total dedicated to backlog reduction efforts to \$160 million. The overall budget request for USCIS is \$1.711 billion, which is \$140 million in discretionary appropriated funds and \$1.571 billion in fees.

The old INS developed a comprehensive backlog elimination plan prior to September 11, 2001, to achieve this goal. And we initially realized significant improvements in fiscal year 2002. Processing times for applications averaged by type between 3 and 72 months. By the end of the year, these same averages were reduced to between 1 and 26 months. However, as we all know, September 11, 2001, profoundly affected our business operations, employees, and stakeholders. New guidance was issued. Security background checks were enhanced. And new processes were implemented. Already, many applications were subject to fingerprint and background checks. The enhanced checks instituted in July 2002 represents an additional set of name checks against a variety of work-out databases housed in the Interagency Border Inspection System, which is also called IBIS.

## SECURITY CHECKS

Approximately 35 million security checks were performed last year by our agency. This change in the way we process immigration benefit applications has meant higher processing costs for USCIS. We make no apologies for our commitment to the integrity of the immigration system. And we will not cut a single corner or compromise security to process an application more quickly. We are making America safer against security and criminal threats one background check at a time.

## SECURITY ENHANCEMENTS

To ensure that our backlog does not increase further, we are currently seeking to adjust our fee schedule through the regulatory process by recovering costs associated with comprehensive security enhancements instituted after September 11, 2001. The cost of these security enhancements is about \$140 million annually or \$21 per application.

## NEW PRIORITIES

The fee adjustments will also support new priorities, such as establishing a refugee corps and establishing the new Office of Citizenship. In addition, USCIS will develop study materials and teaching guides to ensure that the process of preparing for naturalization is more meaningful, as well as developing standardized testing procedures.

We fully realize that increased funding alone will not enable us to realize our goals. We are taking a hard look at the way we currently conduct our business. We are aggressively working to modernize our systems and increase our capacity through the re-engineering of processes to include developing mechanisms to interact with customers in a more forward-reaching manner.

## NEW BACKLOG ELIMINATION PLAN

We are now in the process of finalizing a new backlog elimination plan that will outline changes to our business processes and which will set forth our revitalized mission of delivering immigration service in the future.

## TEMPORARY WORKER PROGRAM

On January 7, as has been mentioned here before, President Bush courageously confronted a broken system, one that has been ignored for too long. From the East Room of the White House, he called for Congress to deliver true reform and a new temporary worker program that facilitates economic growth, enhances national security, and promotes compassion. Many have asked how USCIS would implement its part of the President's temporary worker program should Congress pass the legislation.

One of the principles of the President's proposed program is that it should be simple and user friendly, thus one that can be effectively administered. The President's proposal calls for aliens present in the United States as of January 7, 2004, to pay a processing fee upon enrolling in the program. USCIS anticipates recovering the cost of processing the applications through collections of a processing fee, as it is done currently with most immigration applications. The processing fee will be set based on a full cost recovery.

## PREPARED STATEMENT

Mr. Chairman, this concludes my prepared remarks. Thank you for your invitation to testify before this committee. And I look forward to your questions.

[The statement follows:]

## PREPARED STATEMENT OF EDUARDO AGUIRRE, JR.,

Good afternoon Chairman Cochran, Ranking Member Byrd and Members of the Subcommittee. My name is Eduardo Aguirre and I have the honor of serving as the first Director of U.S. Citizenship and Immigration Services, within the Department of Homeland Security.

We are a welcoming Nation, and the hard work and patriotism of our immigrants has made our Nation prosperous. We seek to continue to improve the administration of immigration benefits for the more than six million applicants who petition USCIS on an annual basis.

We continue to commit ourselves to building and maintaining an immigration services system that provides information and benefits in a timely, accurate, consistent, courteous, and professional manner; while preventing ineligible individuals from receiving benefits. Put more simply, it is our job to make certain that the right applicant receives the right benefit in the right amount of time, while preventing the wrong individuals from obtaining our benefits.

USCIS is one of the largest fee-funded agencies in the Federal government—charging fees for a variety of benefits from individuals seeking to enter, reside, or work in the United States. Therefore, the actual cash flow for our business operations, including a network of 250 local offices, Application Support Centers, Service Centers, Asylum Offices, National Customer Service Call (NCSC) Centers, Forms Centers, and Internet portals, varies from year to year with the number of immigration benefit applications received.

In any typical work day, our workforce of 15,500 (one-third of whom are contractors) will:

- Process 140,000 national security background checks;
- Receive 100,000 web hits;
- Take 50,000 calls at our Customer Service Centers;
- Adjudicate 30,000 applications for immigration benefits;
- See 25,000 visitors at 92 field offices;
- Issue 20,000 green cards; and
- Capture 8,000 sets of fingerprints and digital photos at 130 Application Support Centers.

USCIS has established three priorities: (1) eliminating the immigration benefit application backlog, (2) improving customer service, while (3) enhancing national security. In our first year of operation we have: initiated on-line options for a few application filings and case status updates; established the Office of Citizenship; eliminated lines at some of our highest volume offices; introduced a toll-free customer service help line; streamlined the Certificate of Citizenship process for internationally adopted children; developed a more secure travel document for permanent residents; and fleshed out our leadership team.

Backlogs of immigration benefit applications began to grow during the 1990s. Overall, there was a 77 percent increase from fiscal year 1993 to fiscal year 2001. The primary factors contributing to the backlogs were a dramatic increase in the number of applications and petitions received, delays in securing funding and positions to process this increasing number of applications, the lengthy amount of time it takes to recruit, hire and train adjudicators, and the lack of a comprehensive approach to monitoring, supporting and maintaining timely processing.

Beginning in fiscal year 2002, the President pledged, and the Congress supported, a multi-year \$500 million initiative to attain a universal 6-month processing time standard for all immigration benefit applications while providing quality service to all customers. We developed a comprehensive Backlog Elimination Plan prior to September 11, 2001 to achieve this goal. The Plan called for improvements to processes and expanded quality assurance efforts designed to achieve a high level of performance. We initially realized significant improvements. In fiscal year 2002, processing times for applications averaged, by type, between 3 and 72 months. By the end of the year, these same averages were reduced to between one and 26 months.

However, September 11, 2001 profoundly affected our business operations, employees, and stakeholders. New guidance was issued, security background checks were enhanced, and new processes were implemented, including conducting interviews for the National Security Entry Exit Registration System (NSEERS) Program.<sup>1</sup> Additionally, since July 2002, we formally enhanced our security background checks on the processing of all immigration benefit applications to ensure that those who receive immigration benefits have come to join the people of the United States in building a better society and not to do us harm.

<sup>1</sup> Program transferred to BTS in November of 2003.

The process of performing enhanced security checks has been designed to compare information on applicants, and other beneficiaries as appropriate, who apply for an immigration benefit against various Federal lookout systems. The enhanced check instituted in July 2002 represents an additional set of name checks against a variety of lookout databases housed in the Interagency Border Inspection System (IBIS). Already, many applications were subject to fingerprint and background checks.

The purpose of conducting security checks is to help law enforcement agencies identify risks to the community and/or to national security and to prevent ineligible individuals from obtaining immigration benefits. On the vast majority of applications, we perform two checks; one when the application is initially received, and one at the time of adjudication. Approximately 35 million security checks are performed annually.

In most of these cases (some 97 percent), the checks take only a few minutes. In the event of a "hit", however, we must hold that application without resolution until the security issue at hand is resolved. Last fiscal year, we processed a little over six million immigration benefit applications. Approximately 7 percent of the applications processed resulted in an initial security hit, and after further scrutiny, 2 percent resulted in confirmed security or criminal threat matches.

This change in the way we process immigration benefit applications has meant higher processing costs for USCIS because the costs of performing these checks were not factored into the existing fee schedule. As a result, existing resources have been diverted to perform the additional security checks until the fees could be adjusted to cover these costs. Although the security enhancements have meant longer processing times in some categories and a significant growth in the application backlog, USCIS has taken the position that security absolutely will not be sacrificed in our search for increased efficiency. USCIS will continue to coordinate and identify suspected benefit fraud cases and refer them to ICE for enforcement action.

Our intra-government coordination demonstrates that our approach realizes the intended results. By way of example, within the last month our background check procedures identified individuals wanted for murder in Portland and sexual assault in Miami. We are making America safer against security and criminal threats, one background check at a time.

I believe that the President's fiscal year 2005 budget will set us on the right path toward enhancing immigration services. The budget includes a total for USCIS of \$1.711 billion, \$140 million in discretionary appropriated funds and \$1.571 billion in fees, and seeks an additional \$60 million to boost the total dedicated to backlog reduction efforts to \$160 million. Our overall goal is to achieve a 6-month processing time standard for all immigration benefit applications by fiscal year 2006.

To ensure that our backlog does not increase further, we are currently seeking to adjust our fee schedule through the regulatory process by recovering costs associated with comprehensive security enhancements instituted after September 11, 2001. The annual cost of these security enhancements are about \$140 million or about \$21 per application.

The fee adjustments will also support new activities such as establishing a refugee corps to improve the quality of refugee adjudications and establishing the new Office of Citizenship<sup>2</sup> to promote instruction and training on citizenship responsibilities to both immigrants and U.S. citizens. The Office of Citizenship is developing initiatives to target immigrants at two critical points on their journey toward citizenship: when they obtain permanent resident status and as they begin the formal naturalization process. In the past, the Federal government provided few orientation materials for new immigrants. In contrast, CIS will reach out to new immigrants at the earliest opportunity to provide them with information and tools they need to begin the process of civic integration. In addition, CIS will develop study materials and teaching guides to ensure that the process of preparing for naturalization is meaningful, so that immigrants who choose to become U.S. citizens have a real understanding of the commitment they are making when they take the Oath of Allegiance to the United States. The establishment of a Refugee Corps will provide a strong and effective overseas refugee processing program able to fulfill the U.S. Refugee Program's humanitarian objectives and more efficiently identify inadmissible persons and those who are of national security interest.

We fully realize that increased funding alone will not enable us to realize our goals. We are taking a hard look at the way we currently conduct our business. We are aggressively working to modernize our systems and increase our capacity through the reengineering of processes, the development and implementation of new information technology systems, and the development of mechanisms to interact with customers in a more forward-reaching manner. For example, USCIS has re-

<sup>2</sup> As required by the Homeland Security Act of 2002.

cently eliminated the backlog of applications for the Certificate of Citizenship on Behalf of an Adopted Child with a program that proactively provides parents the certificate.

We are now in the process of finalizing a new Backlog Elimination Plan that will outline changes to our business processes, and which will set forth our revitalized vision of delivering immigration services in the future.

Additionally, we are examining the standard of knowledge in the current citizenship test to ensure that prospective and new citizens know not only the facts of our Nation's history, but also the ideals that have shaped that history.

The project management team for this initiative recently met with over a dozen historians, civics experts, and adult educators to discuss the redesign of the U.S. history portion of the naturalization test with the goal of making the test more meaningful, substantive, and fair. This group is examining the meaning of significant events that occurred in our Nation's history, and is exploring ways in which naturalization candidates may better retain the significance of these events. Recognizing that many Americans have strong beliefs about what our new citizens should know about our country, we plan to publish the proposed test content in the Federal Register and ask for public comment. We believe that many Americans would like to have a say in what we are asking our new citizens to learn, and we are eager to hear from them. We look forward to briefing you and other Members of Congress on our proposed new citizenship test content and receiving your feedback, as well.

In a related effort, this same team is working to redesign the current citizenship testing methodology in an effort to ensure more uniform results. Currently, a candidate in Los Angeles is, in all likelihood, not tested the same way or asked the same questions as a candidate taking the same exam on the same day in Boston. Therefore, we are developing standardized testing procedures so that applicants can be assured that they are experiencing an equitable testing process.

We do not want to make the test more difficult. We do not want to make it less difficult. We want to make it more meaningful in a way that does not have an adverse impact on any particular group of applicants. Therefore, we will carefully pilot test the revised English, history, and government tests before implementing them. And, we will continue to consult with our stakeholders to solicit their input.

Our plan is to implement the new test and testing process in 2006. Given the importance of the ultimate benefit for those tested—U.S. citizenship—this process is not one that can or should be rushed. We are committed to improving the current process and to improving it in the right way.

As we celebrate our institutional 1-year anniversary, USCIS has stood up an organization of which we are very proud. We have established a leadership team, improved many of our operational processes, and continue to strive to make further improvements. The funding requested in the President's fiscal year 2005 budget request is an important factor in continuing to improve the service we can offer our customers.

This concludes my prepared remarks. I thank you for the invitation to testify before this committee and I would be happy to answer any questions.

Senator COCHRAN. Thank you, Mr. Aguirre.

Mr. Bonner, we will be glad to hear from you now.

#### STATEMENT OF COMMISSIONER ROBERT C. BONNER

Mr. BONNER. Yes, Mr. Chairman. Thank you. Senator Byrd, other members of the subcommittee, I am pleased to be here to discuss the Customs and Border Protection, or CBP, 2005 budget request. Let me just make a couple of observations. First of all, one of the most important ideas of the reorganization into the Department of Homeland Security was to do, as Secretary Ridge put it, create one face at the border, one agency for our borders to manage and secure the borders of our country. And that started on March 1, 2003, just over a year ago.

When all of the immigration inspectors of the former INS, all the agriculture border inspectors from the Department of Agriculture, all of the border patrol agents merged with the bulk of the U.S. Customs Service to form the Bureau of Customs and Border Protec-

tion, an agency within the Department of Homeland Security, responsible for managing and securing our Nation's borders.

CBP is the largest and perhaps one of the most profound actual mergers of people and functions taking place as a result of the Department of Homeland Security reorganization. The number of employees in CBP equals about one-fourth of all the employees of the Department of Homeland Security. And that is not particularly surprising when one considers the importance of the security of our borders to the security of our homeland.

By unifying the border agencies we are, and we will be, more effective and more efficient than we were when border responsibilities were literally fragmented among four different entities or agencies of our government, reporting to three different departments of our government, which is the way we were organized before March 1, 2003, before the creation of the Department of Homeland Security.

And I will also report to this subcommittee that we have made great progress towards successfully completing this historic merger.

In the last year alone, I have selected one port director for each and every one of the 300 plus ports of entry to the United States. We no longer have two or three different port directors for agriculture, immigration, and customs. We have one port director at all ports-of-entry into this country.

#### CBP INSPECTORS

We have provided antiterrorism training for all CBP inspectors and equipped all front line inspectors with radiation detection devices. We have implemented unified primary inspections at our international airports. So for the first time, we are performing a primary inspection, not just for immigration, but for all purposes, immigration, customs, and agriculture purposes. No more running the gauntlet of three different agencies when you enter the United States at one of our international airports.

#### INTEGRATION OF PASSENGER ANALYSIS UNITS AND CONSOLIDATED ANTITERRORISM SECONDARY EXAMINATIONS

We have integrated our passenger analysis units and consolidated our anti-terrorism secondary examinations, so that all of our customs and immigration expertise and authorities are brought to bear, and are used in identification, questioning, and searching of potential terrorists arriving at our borders.

#### NEW CBP UNIFORM FOR ALL CBP INSPECTORS AND CREATED AN OFFICE OF THE BORDER PATROL

We have rolled out a new CBP uniform for all of CBP inspectors at our ports of entry. All 19,000 CBP inspectors will be in this new uniform by July of this year. And many of them already are. And we have integrated the border patrol in CBP by creating an Office of the Border Patrol. We have revised the border patrol's national strategy to reflect the priority mission of CBP and the Department of Homeland Security. And we have implemented portions of that by stationing now over 1,000 border patrol agents at our northern border sectors.

## PRIORITY MISSION OF CBP

The priority mission of CBP is preventing terrorists and terrorist weapons from entering our country, but we recognize that to do that mission we need to carry it out without stifling the flow of legitimate trade and travel that is so vital to our country's economy and to our way of life. Those do not have to be mutually exclusive and we are pursuing smart border initiatives to make them mutually reinforcing.

For example, rather than physically inspecting the approximately 23 million containers that arrive by sea, rail, and truck into the United States yearly, which would be tantamount to closing our borders down and shutting down our economy, we have taken measures to identify the high-risk containers and inspect them rapidly, using state-of-the-art technology when they arrive at our seaports or our land borders.

We are obtaining electronic data on virtually all shipments that are coming to the United States. And we are using that data in our automated targeting system to identify all potentially high-risk containers, particularly for the terrorist threat. And we are inspecting all high-risk containers for terrorist weapons using our non-intrusive inspection technology and our radiation detection technology.

## CONTAINER SECURITY INITIATIVE

We are also, though, employing a layer defense which is an extended border strategy. And that is through the Container Security Initiative. We are pushing our zone of security beyond our physical borders by placing our personnel overseas to work with other governments to target, identify, and inspect their high-risk containers destined for the United States, and destined for our seaports before they are loaded aboard vessels at foreign seaports.

I am not going to discuss this chart I put up here but that chart indicates in a nutshell that already countries, 38 foreign ports, have agreed with us to deploy and implement the Container Security Initiative. And we have already moved out rapidly and have implemented, by stationing our personnel overseas as CSI targeters at 18 foreign seaports. And, of course, we are not stopping there. We are going to continue to expand the container security initiative.

## CUSTOMS TRADE PARTNERSHIP AGAINST TERRORISM

We also, under the Customs Trade Partnership Against Terrorism, we are working with the private sector to increase the security of their supply chains, literally from the foreign loading docks to our ports of entry into the United States.

## FISCAL YEAR 2005 BUDGET REQUEST

Our budget request, Mr. Chairman, for 2005 for program increase is \$190 million. That includes funding for the container security initiative to continue its expansion, funding to expand the Customs Trade Partnership Against Terrorism. There is some significant funding for radiation detection equipment to further expand our portal radiation monitors and other detection equipment



at our ports of entry into the United States to better detect against radiological and even nuclear weapons.

#### PREPARED STATEMENT

There is funding for the enhancements of our automated targeting system, as well as for surveillance and sensing technology for the border patrol, and some funding for UAVs to deploy and operate Unmanned Aerial Vehicles to better detect illegal crossings at our borders.

So I want to thank you, Mr. Chairman and members of this committee, for the support you have given already to Customs and Border Protection. And in working together, I am confident that we will succeed in better securing our borders against the terrorist threat.

That concludes my statement, Mr. Chairman. And I will answer any questions at the appropriate time that you or this subcommittee may have.

[The statement follows:]

#### PREPARED STATEMENT OF ROBERT C. BONNER

##### INTRODUCTION AND OVERVIEW

Chairman Cochran, Ranking Member Byrd, Members of the Subcommittee, it is a privilege and an honor to appear before you today to discuss Customs and Border Protection's (CBP) fiscal year 2005 budget request.

I want to begin by expressing my gratitude to the Committee on Appropriations for the support it provided for important initiatives implemented by CBP last year. That support enabled CBP to make significant progress in protecting our country against the terrorist threat. I also want to thank Congress for the support it provided in creating the new Department of Homeland Security, and the new Customs and Border Protection agency within that Department. As the head of CBP, I look forward to working with you to build on these successes.

The priority mission of CBP is to prevent terrorists and terrorist weapons from entering the United States. That extraordinarily important priority mission means improving security at our physical borders and ports of entry, but it also means extending our zone of security beyond our physical borders—so that American borders are not the first line of defense.

And we must do this while continuing to perform our traditional missions well. These missions include apprehending individuals attempting to enter the United States illegally, stemming the flow of illegal drugs and other contraband, protecting our agricultural and economic interests from harmful pests and diseases, protecting American businesses from theft of their intellectual property, regulating and facilitating international trade, collecting import duties, and enforcing U.S. trade laws. In fiscal year 2003, CBP processed 26.1 million trade entries, collected \$24.7 billion in import duties, seized 2.2 million pounds of narcotics, and processed 412.8 million pedestrians and passengers and 132.2 million conveyances.

We must perform all of this important security and border-related work without stifling the flow of legitimate trade and travel that is so important to our nation's economy. In other words, we have "twin goals": Building more secure and more efficient borders.

Our total program increase request for fiscal year 2005 is \$223 million. These funds will help CBP fulfill its priority mission of preventing terrorists and terrorist weapons from entering the United States. As Commissioner, I will also devote needed funds to support the automation and information technology programs that will improve overall operations of the agency, and I will devote funds to support the traditional missions for which CBP is responsible.

Mr. Chairman, although I will touch on each of these areas in my statement, and outline the actions CBP has taken or is planning to take in each, I want to point out that in many cases, funds spent in one area have a direct and positive impact on other areas. For example, funds spent on automation and information technology provide invaluable assistance to our priority mission of preventing terrorists and terrorist weapons from entering the United States. Also, funds spent on our priority

mission often result in improvements in our effectiveness and efficiency in carrying out our traditional missions, such as interdicting narcotics, and vice versa.

By way of summary of the fiscal year 2005 budget for CBP, I can tell you that the program increases we are requesting include:

- \$25 million for the Container Security Initiative, which will support the continued expansion of the program, including the stationing of CBP personnel in additional key international seaports to examine high-risk cargo before it is placed on ships bound for the United States;
- \$15 million for the Customs-Trade Partnership Against Terrorism to increase supply chain security and expedite the clearance of legitimate trade;
- \$50 million for Radiation Detection and Non-Intrusive Inspection Technology to detect weapons of mass destruction;
- \$21 million for Targeting Systems Enhancements to identify high-risk travelers and goods for inspection while allowing the vast majority of law abiding travelers and commerce to continue unimpeded;
- \$64 million for Border Patrol Surveillance and Sensor Technology for the expansion of the remote video system along the southern and northern borders to detect illegal crossings and to increase the effectiveness of agents responding to such crossings;
- \$10 million for Unmanned Aerial Vehicles to develop, procure, deploy, and operate a system of unmanned aerial vehicles to support the Border Patrol by detecting and monitoring illegal border crossings; and
- \$5 million to support the International Trade Data System (ITDS) to revolutionize the way international trade data is collected, disseminated, and used.

In my statement, I will discuss these programs and others that CBP has been working on during the past year. I would like to begin, though, with a brief update for the Subcommittee on the status of CBP after 1 year.

#### CUSTOMS AND BORDER PROTECTION AT 1 YEAR

On March 1st, the Department of Homeland Security celebrated its 1 year anniversary as a Department. The anniversary marked the successful transfer of approximately 42,000 employees from the U.S. Customs Service, the Immigration and Naturalization Service, and the Animal and Plant Health Inspection Service (APHIS) to the new Customs and Border Protection agency in the Department of Homeland Security. CBP is the largest actual merger of people and functions within the Department of Homeland Security. Indeed, about one-fourth of the personnel of DHS are housed within CBP. That is not surprising considering how important the security of our borders is to the security of our homeland.

#### *One Face at the Border*

To create CBP, on March 1, we took a substantial portion of U.S. Customs and merged that with all of the immigration inspectors and Border Patrol from the former INS, and inspectors from the Department of Agriculture's APHIS. This means that for the first time in our country's history, all agencies of the United States Government with significant border responsibilities have been integrated and unified into a single Federal agency responsible for managing, controlling and securing our Nation's borders.

At CBP, we are creating, as Secretary Ridge has called it, "One Face at the Border"—one border agency for our country. In the year following its creation, CBP has made significant strides toward unification. And America is safer and its border are more secure than they were when border responsibilities were fragmented in three different departments of government, as they were before March 1, 2003—before the creation of the Department of Homeland Security.

On March 1, 2003, CBP designated one Port Director at each port of entry and put in place a single, unified chain of command. This was the first time there has ever been one person at each of our nation's ports of entry in charge of all Federal Inspection Services. And in terms of an immediate increase in antiterrorism security, on Day One, all frontline, primary inspectors at all ports of entry into the United States were equipped with radiation detection devices. Since March 1, 2003, all inspectors have also received antiterrorism training.

Last year, we began rolling out unified CBP primary inspections at international airports around the country, starting with U.S. citizens and Lawful Permanent Residents. Unified primary means that the CBP inspector in the booth will conduct the primary inspection for all purposes—immigration, customs, and agriculture. Launched at Dulles, Houston, JFK, Newark, LAX, Atlanta, Miami, San Francisco, unified primary is now operational at all major international airports. This is a major step forward in eliminating the process of travelers potentially having to "run the gauntlet" through three separate inspection agencies. Although legacy customs

and immigration inspectors have assumed interchangeable roles at the land border ports of entry for years, this is the first time unified primary has been done on a national scale at our country's airports.

Along with unified primary, we have also developed and are implementing combined anti-terrorism secondary which leverages the expertise and authorities of both legacy customs and immigration to conduct a joint secondary inspection of passengers deemed high-risk for terrorism. CBP has also begun to coordinate and consolidate our passenger analytical units—the units that identify potential high-risk travelers for inspection. Again, this brings together the customs and immigration experience and authority to more effectively and efficiently identify and interdict individuals who pose a possible terrorist risk.

#### *Unifying Symbols and the CBP Officer Position*

Since July 2003, we have begun rolling out a new CBP uniform and patch for all CBP inspectors at our Nation's ports of entry. It will replace the three different customs, agriculture, and immigration inspectional uniforms and patches. The new uniform and patch represent our most visible unifying symbols to the American public. The new uniform is being implemented in four phases. In the first phase, completed as of October 1, 2003, all CBP managers and supervisors converted to the new uniform. Other CBP uniformed personnel will be phased in at various points with implementation scheduled to be complete by July of this year.

All of these actions are helping us unify and become more effective as an agency. Perhaps our most significant step toward achieving "One Face at the Border," though, was announced by Secretary Ridge on September 2, 2003: the rollout of the new "CBP Officer" position. As of October, 2003, we stopped hiring and training legacy "immigration" or "customs" inspectors and began hiring and training a new group of "CBP Officers," who will be equipped to handle all CBP primary and many of the secondary inspection functions, in both the passenger and cargo environments. We are also deploying CBP Agriculture Specialists to perform more specialized agricultural inspection functions in both these environments.

#### *Integrated Training*

Training is a very important component to the roll out of the CBP Officer. We have created a new 14 week, 71-day basic course that provides the training necessary to conduct primary processing and to be familiar with secondary processing of passengers, merchandise, and conveyances in all modes of transport—air, sea, and land. The new CBP Officer course was built from the 53-day basic Customs inspector course and the 57-day basic Immigration inspector course, with redundancies removed, and with additions to address anti-terrorism and CBP's role in agriculture inspection. The training also supports the traditional missions of the legacy agencies integrated in CBP. Our first CBP Officers were hired on September 22, 2003, and they immediately started training at the Federal Law Enforcement Training Center (FLETC).

#### *Enhanced Security Between Ports of Entry*

We have also worked very hard to integrate the Border Patrol into CBP and simultaneously to improve the security of our country between the ports of entry. We have revised and refocused the Border Patrol's National Strategy, which had previously been focused on preventing the flow of illegal aliens and drugs between ports of entry on our border with Mexico. It now includes an aggressive strategy for protecting against terrorist penetration, at both our northern and southern borders.

And we have started implementing this Strategy. On 9–11, there were only 368 authorized positions for Border Patrol agents for the entire northern border. In the last year, we have added almost 500 agents to the northern border, giving us more than 1,000 total—exceeding the goal I set soon after March 1, 2003. This staffing increase will better secure our border against terrorist penetration.

But we are doing more than just adding staffing. We are adding sensors and other technology that assist in detecting illegal crossings along both our northern and southern borders, including Remote Video Surveillance (RVS) systems. These RVS systems are real-time remotely controlled force enhancement camera systems, which provide coverage along the northern and southern land borders of the United States, 24 hours per day, 7 days a week. The RVS system significantly enhances the Border Patrol's ability to detect, identify, and respond to border intrusions, and it has a deterrent value as well.

And we have seen gains in security by integrating the Border Patrol into CBP. For example, the Office of Field Operations and the Office of the Border Patrol are now able to quickly and easily share equipment and information to support one another, and have done so on many occasions, whether it be the use of radiation detec-

tion equipment at higher threat conditions, or the use of truck imaging equipment to detect and deter human smuggling.

#### MEETING OUR TWIN GOALS: BUILDING MORE SECURE AND MORE EFFICIENT BORDERS

As the single, unified border agency of the United States, CBP's mission is vitally important to the protection of America and the American people. In the aftermath of the terrorist attacks of September 11th, we have developed numerous initiatives to meet our twin goals of improving security and facilitating the flow of legitimate trade and travel. Funds from the fiscal year 2005 budget will help us expand those initiatives and to begin new ones to ensure further protection of both the American people and the American economy. Our strategy in implementing these initiatives involves a number of factors, including: (A) constantly improving and expanding our targeting systems to better screen more people and goods entering and departing the United States; (B) pushing our "zone of security outward" by partnering with other countries; (C) pushing our "zone of security outward" by partnering with the private sector; (D) deploying advanced inspection technology and equipment at our ports of entry to detect weapons of mass destruction; and (E) deploying advanced detection and monitoring equipment between our ports of entry to detect illegal crossings.

#### *Enhancing our ability to identify high-risk people and cargo*

Information is one of the most important keys to our ability to increase security without stifling legitimate trade and travel. Good information enables us to more accurately identify—or target—what is "high risk," defined as a potential threat, and what is low risk or absolutely no risk whatsoever. The separation of high risk from no risk is critical because searching 100 percent of the cargo and people that enter the United States would unnecessarily cripple the flow of legitimate trade and travel to the United States. What is necessary and advisable is searching 100 percent of the high-risk cargo and people that enter our country. To do this, we need to be able to identify what is high risk, and do so as early in the process as possible. CBP has several programs and initiatives that help us accomplish that task.

#### *Advance Electronic Information*

Since September 11th, CBP has taken numerous steps to ensure that it has the information it needs, at the right time, to identify all high-risk people and shipments destined for the United States. As a result of these efforts, and the strong support of the Congress, CBP now has, among other authorities, the statutory authority to require Advance Passenger Information and Passenger Name Record data on all people flying into and out of the United States, as well as advanced, electronic manifest data on cargo destined for or departing the United States. CBP has worked aggressively to promulgate and implement regulations pursuant to these enabling statutes. For example, we are currently implementing regulations requiring advance, electronic manifest (or similar) data on virtually all cargo coming into the United States by any mode (rail, truck, aircraft, vessel), whereas this data was previously provided on a voluntary, and very limited basis. These requirements should be fully implemented by early fiscal year 2005.

#### *National Targeting Center (NTC)*

The NTC began around the clock operations on November 10, 2001, with a priority mission of providing tactical targeting and analytical research support for Customs' anti-terrorism efforts. As personnel from Customs, the INS, and the USDA came together on March 1, 2003, under the umbrella of CBP, the NTC mission broadened commensurately with the CBP role in support of Homeland Security.

The NTC is primarily staffed by CBP Officers and analysts that are experts in passenger and cargo targeting for air, sea, and land operations in the inbound and outbound environments. The NTC develops tactical targets—potentially high-risk people and shipments that should be subject to a CBP inspection—from raw intelligence, trade, travel, and law enforcement data. NTC also supports CBP field elements, including Container Security Initiative (CSI) personnel stationed in countries throughout the world, with additional research assets for passenger and cargo examinations.

In January 2003, the NTC staff relocated to a state-of-the-art facility. The new facility is designed to accommodate representatives from all CBP disciplines, including representatives from the Office of Border Patrol, the Office of Intelligence, and the Office of Information and Technology, as well as liaison staff from the law enforcement and intelligence communities. The NTC has developed liaison with the Office of Naval Intelligence and the U.S. Coast Guard via an exchange of personnel with the National Marine Intelligence Center. NTC has also exchanged personnel

with the Transportation Security Administration, the Department of Energy, and provided targeting expertise to the DHS Operations Center.

The funding sought in fiscal year 2005 will enable the NTC to continue to expand its infrastructure and personnel to meet the needs of CBP as we see continued increases in passengers and commercial shipments coming to the United States. It will also enable the NTC to continue to play a central role in interagency activities related to identifying high-risk people and cargo.

#### *Automated Targeting System*

The Automated Targeting System (ATS), which is used by NTC and field targeting units in the United States and overseas, is essential to our ability to target high-risk cargo and passengers entering the United States. ATS is the system through which we process advance manifest and passenger information to pick up anomalies and “red flags” and determine what cargo is “high risk,” and therefore will be scrutinized at the port of entry or, in some cases, overseas.

The funding increases sought for ATS in the fiscal year 2005 budget will allow for the continued improvement of the system as well as provide it with the capacity to process the electronic data related to the ever-increasing number of people and goods entering the United States. For example, the funding will allow us to develop and implement a version of ATS that, for the first time, will be able to identify potentially high-risk travelers in passenger vehicles. It will also be used to upgrade our passenger targeting system by improving the amount of government data that the system can access and analyze as well as provide us with the capacity to train more people on the use of the system. On the cargo side, the funding will permit ATS to increase its capacity and upgrade its capabilities by utilizing cutting edge information analysis technologies developed by CBP and the private sector.

#### *Pushing our Zone of Security Outward—Partnering with Other Countries*

##### *Container Security Initiative (CSI)*

To meet our priority mission of preventing terrorists and terrorist weapons from entering the United States, I believe CBP must “push our zone of security outward”—so that our borders are not the first line of defense to keep terrorists and terrorist weapons out of the United States. We have done this by partnering with other countries on our Container Security Initiative (CSI), one of the most significant and successful homeland security initiatives developed and implemented after 9–11.

Almost 9 million cargo containers arrive at U.S. seaports annually. Because of the sheer volume of sea container traffic and the opportunities it presents for terrorists, containerized shipping is uniquely vulnerable to terrorist attack. Under CSI, which is the first program of its kind, we are partnering with foreign governments to identify and inspect high-risk cargo containers at foreign ports, before they are shipped to our ports and pose a threat to the United States and to global trade.

The four core elements of CSI are:

- First, identifying “high-risk” containers, using ATS and the 24-hour rule, before they set sail for the United States.
- Second, pre-screening the “high-risk” containers at the foreign CSI port before they are shipped to the United States.
- Third, using technology to pre-screen the high-risk containers, including both radiation detectors and large-scale imaging machines to detect potential terrorist weapons.
- Fourth, using smarter, “tamper-evident” containers—containers that indicate to CBP officers at the port of arrival whether they have been tampered with after the security screening.

CSI continues to generate exceptional participation and support. The goal for the first phase of CSI was to implement the program at as many of the top 20 foreign container ports—in terms of volume of cargo containers shipped to United States seaports—as possible. Those ports account for nearly 70 percent of all cargo containers arriving at U.S. seaports. Today, the governments representing 19 of the top 20 ports have agreed to implement CSI, and I am confident that we will reach agreement with the 20th port very soon.

We announced the second phase of CSI in June 2003. Under CSI Phase II, we will implement CSI at other foreign ports that ship a significant volume of cargo to the United States, and that have the infrastructure and technology in place to support the program. We have already signed CSI agreements with Malaysia, Sweden, South Africa, and Sri Lanka. Once we have Phase II implemented, we anticipate that CSI will cover approximately 80 percent of the containers coming to the United States.

Right now, CSI is operational in the following locations: Rotterdam, the Netherlands; Le Havre, France; Bremerhaven and Hamburg, Germany; Antwerp, Belgium; Singapore; Yokohama, Japan; Hong Kong; Gothenburg, Sweden; Felixstowe, United Kingdom; Genoa and La Spezia, Italy; Busan, Korea; Durban, South Africa; and Port Kelang, Malaysia. These locations account for nearly 70 percent of all cargo containers destined for the United States.

I want to express my gratitude to the Committee members for their support of CSI in fiscal year 2004. With the \$25 million increase in funding that we are requesting for CSI in fiscal year 2005, we will have CSI in place and operational at as many as 40 seaports around the world.

#### *Immigration Control Officers (ICOs)*

Over the last few years, we have also started applying the concept underlying CSI, i.e., pushing our zone of security beyond our borders, to the movement of people. This effort originated with the INS and its Immigration Control Officer (ICO) program. Through CBP, this effort is continuing, and being refined to better address the terrorist threat.

The roles and responsibilities of the ICOs are to: (1) seek to prevent the onward movement of people positively identified as presenting a security threat to the carrier or passengers on international flights destined to the United States; (2) disrupt and deter the smuggling of special interest aliens, or fraudulently documented and otherwise inadmissible aliens destined to the United States; (3) provide advance notice of passengers on onward transit airports and destination airports whose true identity and purposes warrant closer inspection; (4) collect law enforcement intelligence on known and suspected smugglers and smuggling facilitators; (5) seek, through cooperation with host government law enforcement agencies and U.S. law enforcement agencies, the apprehension and prosecution of smugglers, facilitators and other identified criminal aliens; and (6) provide training in fraudulent detection, migration trends, passenger assessment and related topics to United States and host government law enforcement, immigration and carrier personnel. The ICOs carry out their responsibilities in accordance with the Code of Conduct for Immigration Liaison Officers of the International Air Transport Association.

Canada, Australia, the United Kingdom and the Netherlands have ICOs stationed around the world. In concert with our international partners, the INS launched Operation Global Shield in October 2002 with the deployment of officers to more than a dozen locations, including major transit hubs in Central and South America, Europe and the Far East. This was a very successful effort. Operation Global Shield resulted in 2,971 interceptions in a 5 month period.

CBP is now building on the lessons learned from Operation Global Shield as well as the experiences of our international partners to refine the ICO concept to better respond to the threat of international terrorism. The United States currently has over 70 legacy immigration personnel overseas, many of whom are engaged in ICO activities, but not on a full time basis. At CBP, we will be working with these personnel to refine their ICO work to ensure that we prevent potential terrorists from boarding aircraft destined for the United States. We will also be putting in place a new, refined ICO program in Warsaw, Poland in the near term to test and refine our antiterrorist measures before expanding the program to other locations.

#### *Pushing our Zone of Security Outward—Partnering with the Trade*

##### *Customs-Trade Partnership Against Terrorism (C-TPAT)*

The Customs-Trade Partnership Against Terrorism (C-TPAT) is a voluntary partnership between CBP and industry to secure international supply chains from end to-end. Through C-TPAT, participants develop and maintain secure supply chains from the foreign factory floor to the ultimate destination in the U.S. CBP, in return, offers C-TPAT shipments expedited processing and provides C-TPAT participants with other benefits.

The program is rigorous. In order to join C-TPAT, a company must conduct a self-assessment of its current supply chain security procedures using C-TPAT security guidelines developed in partnership with logistics and security experts from the trade. A participant must also commit to increasing its supply chain security by addressing any vulnerabilities that exist. Perhaps most importantly, participants also make a commitment to work with their business partners and customers throughout their supply chains to ensure that those businesses also increase their supply chain security. By leveraging the influence of importers and others on different participants in the supply chain, C-TPAT is able to increase security of U.S. bound goods at the time of container stuffing. This reach—to the foreign loading dock—is critical to the goal of increasing supply chain security.

Although C-TPAT is a partnership, we are not simply taking the participants at their word when it comes to their supply chain security. As a former President once said: "Trust, but verify." Applying this lesson, we have created a cadre of specially trained supply chain security specialists to validate the commitments made by C-TPAT participants—to ensure that they are increasing supply chain security as they have promised CBP. These specialists meet with personnel from C-TPAT participants and their business partners and observe the security of their supply chains, including security at overseas loading docks and manufacturing plants. Through this process, we work with C-TPAT participants to identify ways that they can further increase their supply chain security and we ensure that companies that are not honoring their commitments lose their C-TPAT privileges.

C-TPAT is currently open to all importers, cross-border air, sea, truck, and rail carriers, brokers, freight forwarders, consolidators, non-vessel operating common carriers (NVOCCs), and U.S. Marine and Terminal operators. We are currently enrolling certain foreign manufacturers in the C-TPAT program as well, and we will continue to develop ways to include this important element of the supply chain in the program. The intent is to construct a supply chain characterized by active C-TPAT links at each point in the logistics process.

As of March 12, 2004, the C-TPAT participation and validation numbers are as follows:

	Partners	Security Profile Received	Certified Partners	Insufficient Security Profiles	Responses Sent	Oldest Security Profile Not Reviewed	Validations Initiated	Validations Completed
Importers .....	3,519	2,434	1,580	277	1,857	41	305	65
Carriers .....	998	803	519	90	609	34	183	40
Brokers/Forwarders .....	1,205	934	759	109	868	31	208	106
Foreign Manufacturers .....	118	58	45	1	46	21	0	0
Marine Port Auth. & Terminal Op. ....	41	32	23	4	27	36	22	10
Total .....	5,881	4,261	2,926	481	3,407	N/A	718	221



*Free and Secure Trade (FAST)*

Building on C-TPAT, we have created the Free and Secure Trade (FAST) program with Canada and Mexico. This program increases the supply chain security of goods moving across our land borders and also facilitates the movement of legitimate commerce by aligning customs processes on both sides of the border and offering the most expedited customs processing available on the land border. To be eligible for FAST processing, importers, carriers, and manufacturers (on the southern border) must participate in C-TPAT and must use a FAST-registered driver. Because each participant must meet C-TPAT supply chain criteria and the driver must be vetted by CBP (including exhaustive database checks and a personal interview), the FAST program substantially increases the security of supply chains across our northern and southern borders. And because FAST relies on advanced electronic data transmissions and transponder technology, CBP can offer FAST shipments the most expedited clearance procedures available today. With these procedures in place, CBP can focus its security efforts and inspections where they are needed most—on high-risk commerce.

FAST is currently operational at 11 major northern border crossings and 2 major southern border crossings. The program will expand to additional locations in fiscal year 2005.

I would like to thank the Committee for its consistently strong support for C-TPAT and FAST. The \$15 million funding increase we have sought for C-TPAT in fiscal year 2005 will enable us to continue to expand both programs by enrolling additional participants. It will also allow us to add a substantial number of supply chain security specialists to our ranks, thereby ensuring that as the program grows, we will be able to conduct an appropriate number of validations. As a result, we will substantially increase the security of our international supply chains.

*Using Technology to Detect Weapons of Mass Destruction at our Ports of Entry*

As trade increases, CBP's reliance on Non-Intrusive Inspection (NII) technology to secure the borders becomes more and more critical. Only by using NII technology to speed the inspections process for weapons of mass destruction and contraband can CBP meet its twin goals of increasing security and at the same time facilitating trade.

CBP uses various technologies in different combinations to substantially increase the likelihood that a nuclear or radiological weapon or weapons grade material will be detected. In addition, CBP uses NII technology to detect and interdict narcotics, currency and other contraband secreted in large containers and commercial shipments. Technologies deployed to our nation's land, sea and air ports of entry include largescale X-ray and gamma-imaging systems—systems that can image the contents of an entire container in seconds. These systems include the Vehicle and Cargo Inspection System (VACIS), Mobile VACIS, Truck X-ray, Mobile Truck X-ray, Rail VACIS, Mobile Sea Container Examinations Systems and the Pallet Gamma-ray System. In September 1996, our first large-scale NII system, a Truck X-ray, became operational in Otay Mesa, California. Today, we have 145 large-scale NII systems deployed.

In addition, we have developed and begun implementing a national radiation detection strategy. Pursuant to that Strategy, we are deploying nuclear and radiological detection equipment to include personal radiation detectors (PRDs), radiation portal monitors (RPMs) and next generation radiation isotope identifier devices (RIIDs). In combination with our layered enforcement strategy—working overseas to prevent the proliferation of nuclear materials and to detect them before they are shipped to the United States—and our use of multiple inspection technologies, these tools currently provide CBP with significant capacity to detect nuclear or radiological materials. Our fiscal year 2005 request for \$50 million would provide CBP with the funding to continue to purchase and deploy the technologies needed to implement its national radiation detection strategy.

*Using Technology to Detect and Monitor Illegal Crossings Between our Ports of Entry*

*Integrated Surveillance Intelligence System (ISIS)*

ISIS is a critical part of CBP's strategy to build smarter borders. By using remotely monitored night-day camera and sensing systems, the Border Patrol can better detect, monitor, and respond to illegal crossings. This, in turn, is critical to the Border Patrol's ability to increase its apprehension capabilities, particularly along our northern border. As a result, the deployment of ISIS is a critical component of the Border Patrol's revised National Strategy to prevent terrorists from entering the United States and to gain control of our nation's borders.

ISIS consists of three independent components: (1) the remote video surveillance (RVS) camera system; (2) sensors; (3) the Integrated Computer Assisted Detection

(ICAD) database. The RVS system integrates multiple color, thermal and infrared cameras, which are mounted on various structures, into a single remote controlled system. The network of sensors consists of seismic, magnetic and thermal devices used to detect and track intrusions. ICAD software components assist in the coordination and data collection of agent deployment in response to sensor alarms.

The \$64.1 million in ISIS funding sought in 2005 would enable CBP to broaden substantially its ISIS coverage of the northern and southern borders—to deploy the system where no ISIS coverage currently exists. This is important because Border Patrol experience has shown that in locations where ISIS is deployed, fewer agents can do a better job of securing the border. ISIS acts as an important force-multiplier that allows Border Patrol agents to remotely monitor the border and respond to specific illegal border crossings rather than having to exhaustively patrol an area adjacent to the border. By contrast, Border Patrol operations without ISIS support are not only less effective, they are more resource-intensive and less safe for Agents.

#### *Unmanned Aerial Vehicles (UAVs)*

Like ISIS, Unmanned Aerial Vehicles (UAVs) are both an important part of the smarter border strategy and an essential element of the Border Patrol's revised National Strategy. UAVs equipped with sophisticated on-board sensors have the potential to provide unparalleled surveillance capability. UAVs provide long-range surveillance. As a result, they are especially effective force-multipliers because they have the capacity to remain on station much longer than other airborne assets, and are particularly useful for monitoring remote land border areas where patrols cannot easily travel and infrastructure is difficult or impossible to build.

UAVs will perform missions involving gathering intelligence on border activities as well as conducting surveillance over open water along the Gulf Coast, the Florida peninsula and the Great Lakes region on the northern border. The high endurance of the larger classes of UAVs permits uninterrupted overnight or around-the-clock coverage, and the size and operating altitudes can make UAVs effectively undetectable by unaided human senses. UAVs will also contribute to enforcement effectiveness and officer safety by providing communications links for coordinating multiple units on the ground is important in remote border operating areas.

The \$10 million in funding sought for UAVs will enable CBP to capitalize more fully on the UAV research that has taken place in a military context, and to apply UAVs in support of the Homeland Security mission. The funding would allow CBP to deploy and operate a system of unmanned aerial vehicles in support of the Border Patrol and other components of Customs and Border Protection. The use of UAVs will complement the other intrusion detection and intelligence gathering components of the border surveillance network to meet the mission of stopping the illegal entry of terrorists, smugglers and others into the United States.

#### AUTOMATION/INFORMATION TECHNOLOGY

Mr. Chairman, no discussion of a successful strategy to protect the American people and the American economy in the 21st century would be complete without consideration of the central importance of automation and information technology to CBP's mission.

#### *Automated Commercial Environment*

The Automated Commercial Environment (ACE) is an important project for CBP, for the business community, for our country, and for the future of global trade. If done properly, it will reform the way we do business with the trade community. It will also greatly assist CBP in the advance collection of information for targeting high-risk cargo to better address the terrorist threat. And in doing so, it will help us expedite the vast majority of low-risk trade.

The successful implementation of ACE has been and continues to be one of my top priorities as Commissioner. Increasing support from Congress and the Administration for ACE has been essential to the development of the new system. Funding of \$319 million in fiscal year 2004 has enabled us to continue development and begin to deliver on the first installment of ACE benefits to the trade community. Indeed, since my testimony last year, I can tell you that the development of ACE and the efforts to put its capabilities to work on America's borders have continued full throttle while CBP works with the Homeland Security Investment Review Group to analyze the existing IT systems being used by DHS agencies, identify redundant technology investments, and plan for the DHS's IT architecture. Among many other accomplishments, this past year brought ACE release to the public for the first time. Currently, 50 importer accounts and related CBP personnel have access to the ACE Secure Data Portal to conduct their CBP business transactions online. This portal provides reliable, secure, highspeed access to critical information.

When fully deployed, this will be the basic tool by which all users within the trade community and government access ACE.

I want to thank Congress again for its past support of ACE. The continued support of ACE with \$322 million in funding for fiscal year 2005 will enable us to keep pace with our schedule for ACE releases in 2004 and 2005. Those include:

- Summer 2004*.—Release 3 (Account Revenue: Periodic Statements and Payments): Initial account revenue will be enabled, allowing accounts to centralize payment processing and utilize periodic statement and payment capabilities as well as ACH Credit and Debit.
- Winter 2005*.—Release 4 (Truck Manifest and e-Release): Cargo Processing will be introduced with the implementation of Automated Truck Manifest and Preferred & eRelease for trucks. This will allow for quicker entry for pre-filed and pre-approved cargo.

#### *International Trade Data System (ITDS)*

One important, fully integrated component of ACE is the International Trade Data System (ITDS). The ITDS initiative is an e-Government strategy being designed, developed, and deployed jointly with ACE that will implement an integrated, government-wide system for the electronic collection, use, and dissemination of the international trade transaction data required by the various trade-related Federal agencies.

ITDS will simplify and streamline the regulation, promotion, and analysis of international trade. It will also assist importers, exporters, carriers, and brokers in complying with Federal trade, transportation, and other regulations by streamlining business processes. ITDS is customer focused and will serve as the government's "single window" into international trade data collection and distribution.

In conjunction with ACE, ITDS will also improve risk assessment. By centralizing and integrating the collection and analysis of information, ACE will enhance CBP's ability to target cargo, persons, and conveyances. The trade data will allow for advanced inter-agency assessment of risks and threats to determine which goods and people must be scrutinized. In addition, Through ACE, the ITDS will be capable of linking the government's law enforcement and other databases into one large-scale relational database that tracks all commerce crossing our borders. ITDS thus extends the functionality of ACE by bringing together critical security, public health, public safety, and environmental protection agencies under a common platform.

The \$5 million increase we are requesting in the fiscal year 2005 budget for ITDS will allow us to ensure integration of ITDS with key Federal agencies, and keep us on schedule to have full functionality rolled out by winter 2006–2007.

#### OTHER TRADITIONAL MISSIONS

Although CBP's priority mission is preventing terrorists and terrorist weapons from entering the United States, we know that we must—and will—accomplish that priority mission while continuing to perform our traditional missions well. Included among those missions are our responsibilities for interdicting drugs, apprehending 16 individuals who enter the United States illegally, regulating and facilitating international trade, and protecting U.S. agricultural and economic interests from harmful pests and diseases.

#### *Drug Interdiction*

Our counterterrorism and counternarcotics missions are not mutually exclusive, and one does not necessarily come at the expense of the other. The initiatives we have put in place to prevent terrorists and terrorist weapons from entering the United States have enabled us to be more effective in seizing other illegal contraband, including illegal drugs. Indeed, one of the first results we saw after implementing ATS for commercial trucks on the land border was a large narcotics seizure from a targeted shipment. And, it is worth noting that the lessons we have learned in our battle against international drug trafficking will help us in the fight against international terrorism.

It would be a grave mistake for drug traffickers and other criminals to misinterpret our focus on terrorism as a weakening of resolve on other fronts. If anything, we have made life even more miserable for drug smugglers as we have intensified our overall presence along America's borders. Our heightened state of security along America's borders has strengthened, not weakened, our counternarcotics mission. As we have added staffing for both inspectors at the ports of entry and Border Patrol Agents between the ports of entry, acquired more inspection technology, conducted more questioning of travelers, and carried out more inspections of passengers and goods in response to the terrorist threat, we have seized greater amounts of narcotics. In fiscal year 2003, for example, we seized more than 2.2 million pounds of

illegal drugs, and made some of the largest individual seizures ever recorded by officers safeguarding our borders.

Effective coordination between inspectors at the ports of entry and agents who carry out investigative activities is essential to the success of our counternarcotics mission. For that reason, CBP will continue to cooperate closely with special agents from U.S. Immigration and Customs Enforcement to carry out this mission.

*Apprehending individuals entering illegally between the ports of entry*

The Office of the Border Patrol is specifically responsible for patrolling the 6,000 miles of Mexican and Canadian international land borders and 2,000 miles of coastal waters surrounding the Florida Peninsula and the island of Puerto Rico. Its primary task is securing America's borders between official ports of entry by preventing the illegal entry of people, goods, and contraband across our borders.

The Border Patrol relies on agents, enforcement equipment (such as a fleet of specialized aircraft and vehicles of various types), technology (such as sensors and night vision cameras), tactical infrastructure (such as roads and vehicle barriers), and intelligence to carry out its mission. Applied in the correct combination, these resources can effectively deter, detect, monitor, and respond to illegal border crossings, as we have seen in locations such as the San Diego Sector and during operations such as Desert Safeguard.

In fiscal year 2003, the Border Patrol played a key role in safeguarding the United States from the entry of terrorists, criminals, and illegal immigrants. Among the 931,557 people apprehended by the Border Patrol in fiscal year 2003 were:

- Two Indian aliens illegally in the United States who were wanted in Canada for attempted murder after they allegedly tied-up, tortured, doused in gasoline, and lit a person on fire;
- One of the ten most wanted criminals in Texas;
- An Iranian citizen illegally in the United States with an extensive criminal history and who may have been involved in bomb making and other serious illegal activity at the time of his arrest at the San Clemente checkpoint;
- A Turkish citizen illegally in the United States who may have been involved in serious illegal activity at the time of his arrest at McAllen International Airport; and
- An alleged resident of the United Arab Emirates illegally in the United States who may have been involved in serious illegal activity at the time of his arrest in Louisiana.

Building on these gains, and drawing on the lessons we learned during Desert Safeguard, CBP is working with other agencies and the Mexican Government to implement the Arizona Border Control Initiative this year. Under this initiative, CBP will substantially reduce the number of illegal entries that occur in Arizona this year and, as a result, will reduce the number of deaths that occur as aliens try to cross the Arizona desert during the warmest months of the year.

*Preventing individuals from entering illegally at the ports of entry*

With respect to preventing individuals from entering the country illegally at the ports of entry, CBP continues to stop hundreds of thousands of people a year who are inadmissible into the United States for a variety of reasons, including prior immigration violations, criminal history, or the possession of false or fraudulent documents.

We are helped in this effort by our close work with the Department of State to ensure CBP inspectors have the tools they need to verify the identity of visa holders and the authenticity of visas issued by the Department of State. Data on holders of immigrant visas is transferred electronically to ports of entry. When the electronic record is updated to reflect an immigrant's admission at a port of entry, that data is transferred electronically to the Bureau of Citizenship and Immigration Services (CIS) for production of a permanent resident card and creation of the immigrant file.

More importantly, with the successful implementation of US VISIT at our international airports earlier this year, CBP officers now have access to photographs and data transmitted electronically by the Department of State relating to holders of nonimmigrant visas. This permits officers on the primary line to review visa application data and verify the identity of the holder. This has virtually eliminated the possibility that a traveler could use a false or fraudulent visa to enter the United States.

*Regulating and facilitating international trade*

CBP maintains responsibility for regulating and facilitating legitimate international trade. As I mentioned earlier, many of the initiatives CBP implements serve the twin goals of increasing security and facilitating trade. With the right

level of industry partnership and the right combination of resources, we can succeed not only in protecting legitimate trade from being used by terrorists, we can actually build a better, faster, more productive system of trade facilitation for the U.S. economy.

We have continued to work with the trade on these matters over the past year, and we will continue to do so in the year ahead. For example, we worked with all segments of the maritime trade to make changes to the 24-hour rule and our computer systems to better facilitate the movement of sea containers in our domestic seaports and to inland destinations. We also worked very closely with the trade to craft and implement our Trade Act regulations, and we will continue this process during the rest of this year. Finally, we have partnered with the trade and technology companies to design and test a smarter, more secure sea container. More importantly, members of the trade are using this container. Through C-TPAT, we have partnered with several large importers to begin using these containers, and we expect to see their use rise substantially in the months ahead.

*Protecting U.S. agricultural and economic interests and the food supply*

CBP now oversees the enforcement of the laws and regulations pertaining to the safe importation and entry of agricultural food commodities into the United States. The traditional goals of the Agriculture Inspections (AI) program have been to reduce the risk of introduction of invasive species into the United States, protect U.S. agricultural resources, maintain the marketability of agricultural products, and facilitate the movement of lawabiding people and commodities across the borders. Accordingly, inspecting potentially high-risk travelers and cargo is critical to keeping the prohibited items out of the United States, monitoring for significant agricultural health threats, encouraging compliance with regulations, and educating the public and importers about agricultural quarantine regulations.

With the creation of CBP, the AI program has expanded its focus to include a new priority mission of preventing potential terrorist threats involving agriculture. Indeed, the threat of intentional introductions of pests or pathogens as a means of biological warfare or terrorism is an emerging concern. To address this threat and to enhance its traditional AI missions, CBP has already begun using the Automated Targeting System, and its collective expertise regarding terrorism and agriculture, to strengthen our ability to identify shipments that may pose a potential risk to our agricultural interests.

In addition, CBP has worked closely with the Food and Drug Administration (FDA) to implement the Public Health Security and Bioterrorism Preparedness and Response Act of 2002 to guard against threats to the food supply. In the last several months, we have modified our electronic data collection systems to collect data from the trade required under the Bioterrorism Act, implemented a joint risk-management system for food shipments with FDA that builds off our Automated Targeting System, and commissioned CBP officers to utilize FDA authorities in certain circumstances at the ports of entry. These efforts have built on our priority and traditional missions to make the food supply more secure, and will be supported in part by the targeting funding sought in the fiscal year 2005 budget.

CONCLUSION

Mr. Chairman, Members of the Subcommittee, I have outlined a broad array of initiatives today that, with your assistance, will help CBP continue to protect America from the terrorist threat while fulfilling our other traditional missions. Because of your support, and because of the creation of DHS and CBP, we are far safer today than we were on September 11th. But our work is not complete. With the continued support of the President, DHS, and the Congress, CBP will succeed in meeting the challenges posed by the ongoing terrorist threat and the need to facilitate ever-increasing numbers of legitimate shipments and travelers.

Thank you again for this opportunity to testify. I would be happy to answer any of your questions.

Senator COCHRAN. Thank you, Mr. Bonner.  
Mr. Garcia, you may proceed.

STATEMENT OF MICHAEL J. GARCIA

Mr. GARCIA. Thank you, Mr. Chairman. Good morning. Good morning, Senator Byrd, distinguished members of the subcommittee. It is a pleasure to be with you today to discuss the President's fiscal year 2005 budget request for the Department of

Homeland Security's U.S. Immigration and Customs Enforcement. The request of just over \$4 billion reflects the vital role ICE plays in the Department's overall mission of ensuring the security of the American people.

A little more than 1 year ago, ICE was formed by combining the investigative and intelligence arms of the former INS and the U.S. Customs Service, including Air and Marine operations, as well as the Federal Protective Service and more recently the Federal Air Marshal Service. By integrating these once-fragmented resources, the Department of Homeland Security not only created the second largest investigative agency in the Federal Government, but it also created a dynamic and innovative new law enforcement organization focused on homeland security, specifically border security, air security, and economic security.

Senator Byrd mentioned that we are looking at the vulnerabilities facing this. And the primary mission of ICE and the Department of Homeland Security is to detect and address those vulnerabilities in our national security, whether those vulnerabilities expose our financial systems to exploitation or our borders to infiltration.

#### ACCOMPLISHMENTS WITHIN THE PAST YEAR

Earlier this month, the dedicated men and women of ICE joined me in celebrating our 1-year anniversary and our many accomplishments within the past year. I will highlight only a few.

ICE is protecting U.S. economic security. And since last March, ICE financial investigations have yielded more than 1,300 arrests and seized more than \$150 million in assets.

In July, ICE launched Cornerstone, a comprehensive initiative that forms a new partnership with the financial, commercial, and trade sectors to identify and mitigate U.S. economic vulnerabilities.

Last fall, ICE launched Ice Storm, a comprehensive initiative to combat violent human smuggling organizations along the southwest border, with particular focus on Arizona. Ice Storm has resulted in more than 2,000 administrative and criminal arrests, 170 indictments, and the seizure of more than 80 weapons and \$2 million. Local police credit Ice Storm with the more than 30-percent drop in homicides in the Phoenix area in the last quarter of 2003 compared to the same period of a year ago.

#### OPERATION PREDATOR

Senator Shelby mentioned Operation Predator. That is an operation we launched last July with the secretary. We targeted child sex predators worldwide under this operation, which fuses the authorities and resources of virtually every ICE component into a comprehensive campaign against child sex predators. To date, Operation Predator has produced unprecedented results with the arrest of more than 2,000 child sex predators nationwide.

#### FEDERAL AIR MARSHALS SERVICE

The ICE Federal Air Marshals Service became a distinct ICE division in November of 2003. ICE agents are being cross-trained as Federal air marshals, giving ICE FAMS a cadre of trained agents

for use when needed. Since September 11, ICE FAMS have provided security on hundreds of thousands of flights, protected millions of passengers, flown millions of miles. Their efforts have helped keep the U.S. civil aviation sector free of terrorism since September 11, 2001.

#### FISCAL YEAR 2005 BUDGET REQUEST

The President's fiscal year 2005 budget will continue to strengthen ICE's efforts to protect the homeland through the unique investigative and enforcement tools of this agency. The proposed 2005 budget and plan to enhance the department's commitment to securing the homeland is designed to build upon the strong foundation I have just described. The President's 2005 budget request seeks over \$4 billion for ICE, \$320 million more than 2004, an increase of 8 percent.

The requested increases include \$186 million for ICE to fund improvements in immigration enforcement both domestically and overseas, including the more than doubling of current worksite enforcement efforts, increased resources to combat benefits fraud and investigate violations of the SEVIS and US VISIT systems, and approximately \$100 million increase for the detention and removal of illegal aliens. Detention or removal illegal aliens present in the United States is critical to the enforcement of our immigration laws. And the requested funding will expand ongoing fugitive apprehension efforts, the removal from the United States of jailed illegal aliens, and additional detention and removal capacity.

Critical to the removal process is ICE's ability to effectively litigate cases before the immigration court. The budget includes our request for \$6 million enhancement to provide additional attorneys to keep pace with an increasing caseload. Our budget also seeks \$14 million to support our international enforcement efforts related to immigration, including enabling ICE to provide visa security by working cooperatively with U.S. consular offices to review these applications.

The budget request also seeks \$40 million in total enhancement for Air and Marine operations, for long-range radar, and increased P-3 flight hours.

#### RECONCILIATION OF THE FISCAL YEAR 2004 BUDGET

Many challenges lie ahead, including reconciliation of the 2004 budget, as was mentioned earlier today, and the mapping issues that go with that. These are serious issues, and this is a serious undertaking. I very much appreciate the support of the subcommittee members. It is a great responsibility. We are committed to protecting the homeland with new approaches to old problems and new approaches to the new challenges we face after September 11.

#### PREPARED STATEMENT

We are committed to managing the transition, as Commissioner Bonner mentioned, of the INS distribution of assets, as well as the Customs breakup. This is a very complex reorganization. And in it we are also committed to being fiscally responsible.

I look forward to working with you, Mr. Chairman and members of this subcommittee. This concludes my prepared statement. I would be happy to answer any questions you might have at this time.

Senator COCHRAN. Thank you, Mr. Garcia.  
[The statement follows:]

PREPARED STATEMENT OF MICHAEL J. GARCIA

*Introduction*

Good morning Chairman Cochran, Senator Byrd, and distinguished Members of the Subcommittee. It is a pleasure to be with you today to discuss the President's fiscal year 2005 budget request for the Department of Homeland Security's (DHS) U.S. Immigration and Customs Enforcement (ICE). This \$4.011 billion request reflects the vital role ICE plays in the Department's overall mission of ensuring the security of the American people and our way of life.

A little more than one year ago ICE was formed by combining the investigative and intelligence arms of the former Immigration and Naturalization Service (INS) and the U.S. Customs Service, including Air and Marine Operations, as well as the Federal Protective Service and the Federal Air Marshal Service. By integrating these once fragmented resources, the Department of Homeland Security not only created the second largest investigative agency in the Federal government, but it also created a dynamic and innovative new law enforcement organization uniquely and exclusively focused on homeland security—specifically border security, air security, and economic security.

The primary mission of ICE and the Department of Homeland Security is to detect and address vulnerabilities in our national security—whether those vulnerabilities expose our financial systems to exploitation or our borders to infiltration. With its enhanced ability to investigate immigration and customs violation—for example our ability to target human smuggling alongside of narcotics, weapons, and other forms of smuggling and follow the illicit money trail wherever it may lead—ICE is in a unique position to enforce our homeland security missions in ways never before possible.

Earlier this month the dedicated men and women of ICE joined me in celebration of our one-year anniversary and our many accomplishments within the past year. This, of course, could not have been accomplished without the support of Congress and the fiscal year 2004 Appropriations. Our accomplishments this year are many but I will only highlight a few:

*Targeting Child Sex Predators Worldwide.*—Operation Predator fuses the authorities and resources of virtually every ICE component into a comprehensive campaign against child sex offenders. To date, Operation Predator has produced unprecedented results with the arrest of more than 2,057 child sex predators nationwide.

*Protecting U.S. Economic Security.*—Since last March, ICE financial investigations have yielded more than 1,330 arrests and seized \$154 million in assets. In July, ICE launched Cornerstone, a comprehensive initiative that forms a new partnership with the financial, commercial and trade sectors to identify and mitigate U.S. economic vulnerabilities.

*Tracking down Arms, Money, and Artifacts in Iraq.*—ICE deployed the first-ever civilian team of agents to Iraq in support of Operation Iraqi Freedom. The agents secured 75 silkworm missiles in Iraq that could have been used against coalition forces. They recovered \$32 million in cash withdrawn by Saddam Hussein's son just before the war and recovered 39,400 manuscripts and more than 1,000 treasures looted from the Iraqi National Museum.

*Dismantling Violent Human Smuggling Organizations.*—Last fall, we launched ICE Storm, a comprehensive initiative to combat violent human smuggling organizations along the Southwest border—with a particular focus on Arizona. In its first 180 days, ICE Storm resulted in more than 700 criminal and administrative arrests, 90 indictments and the seizure of 46 assault weapons and nearly \$2 million. Local police credited ICE Storm with a more than 30 percent drop in homicides in the Phoenix area in the last quarter of 2003, compared to the same period the previous year.

*Enhancing Civil Aviation Security.*—The ICE Federal Air Marshal Service (FAMS) became a distinct ICE division in November 2003. ICE agents are being crosstrained as air marshals, giving ICE FAMS a cadre of trained agents in times of need. ICE also signed an agreement with the U.S. Secret Service that increases flight coverage. Since 9/11, ICE FAMS have provided security on hundreds of thou-



sands of flights, protected millions of passengers and flown millions of miles. Their efforts have helped keep the U.S. civil aviation sector free of terrorism since 9/11.

*Apprehending and Removing Criminal Aliens from the United States.*—Since March 1, 2003, ICE's Detention and Removal Office (DRO) has removed more than 52,684 criminal aliens and 40,802 non-criminal aliens. DRO detains more than 230,000 aliens each year. ICE's DRO has more than 18 fugitive absconder teams across the Nation and created a "Most Wanted" list of the most dangerous criminal aliens. In the first 2 weeks, ICE captured or confirmed the removal of all 10 of the original 10 "Most Wanted."

*Improving Security at U.S. Federal Facilities.*—The transfer of the Federal Protective Service to ICE has provided FPS with access to information never before at its disposal, enabling it to perform its mission more effectively. ICE FPS secures more than 8,800 federally owned and leased facilities. In fiscal year 2003, ICE FPS seized or stopped the entry of more than 108,800 weapons and other items. During the same period, ICE FPS officers made more than 2,800 arrests and covered more than 2,100 demonstrations.

*Securing Critical Airspace in the U.S., While Protecting Land and Sea Borders.*—ICE's Air and Marine Operations (AMO) division has dramatically increased its role in homeland security missions while maintaining its traditional drug interdiction and law enforcement efforts. AMO created a permanent National Capital Region branch that provides 24/7 airspace security coverage over the Washington, DC area. AMO provided airspace security coverage during "Orange Alert" threats and events like the State of the Union address and Super Bowl. All the while, AMO assets were involved in drug and alien smuggling operations that seized more than 76,000 pounds of cocaine, 335,000 pounds of marijuana, and arrested more than 980 individuals.

*Harnessing Intelligence to Further Enforcement Efforts.*—ICE's Intelligence Division integrated the intelligence components of the former Immigration and Naturalization Service and the U.S. Customs Service into a robust force that supports the enforcement needs of all ICE operational divisions. ICE Intelligence vetted roughly 60,000 commercial airline passengers and crewmembers through a multi-stage process during the "Orange Alert" terror threat level during December 2003 and January 2004 period.

ICE continues to pursue its homeland security mission by building upon the traditional missions, resources, authorities and expertise of the legacy agencies it inherited. ICE is bringing new approaches to traditional areas of law enforcement and creating enforcement programs in response to its homeland security mission. The President's fiscal year 2005 Budget will continue to strengthen ICE's efforts to protect the homeland through its unique investigative and enforcement tools.

#### *Budget Request for fiscal year 2005*

The proposed fiscal year 2005 budget—a plan to enhance the Department's commitment to securing the homeland—is designed to build upon the strong foundation I have described. The President's fiscal year 2005 Budget request seeks \$4.011 billion for ICE, \$302 million more than fiscal year 2004, which represents an increase of 8 percent. This request for ICE includes resources to support border, air and economic security activities. These funds will also reduce infrastructure vulnerability, promoting safe and secure Federal properties for both employees and visitors. The remaining budget discussion will cover the major program areas: Investigations, Detention and Removal Operations, Air and Marine Operations, Federal Protective Service and the Federal Air Marshal Service, as well as our requested fiscal year 2005 budget enhancements.

*The Office of Investigations.*—Budget request includes \$1.046 billion for the investigations and intelligence programs. These resources will advance national security and homeland defense against terrorist cells and their supporters in the United States through enhanced cooperation and integration with other Federal law enforcement agencies and the intelligence community. The Investigations program protects our homeland by, among other things, dismantling terrorist financing networks, by identifying and remediating vulnerabilities in the financial system that could be exploited by terrorist organizations, preventing the importation of weapons of mass destruction and other instruments of terror into the United States, disrupting narcotics smuggling and money laundering organizations, enforcing embargoes, trade agreements, and sanctions imposed by the U.S. government against foreign countries, and safeguarding children against exploitation through crimes involving pornography, sex tourism, and forced child labor.

The President's fiscal year 2005 Budget request seeks \$78 million in total enhancements for the Investigations Program. This includes:

- \$23 million/200 FTE for Worksite Enforcement. Consistent with the goals of the President's proposed new temporary worker program to match willing foreign working workers with willing U.S. employers, enforcement of immigration laws against companies that break the law and hire illegal workers will increase. This increase will more than double the level of resources devoted to traditional worksite enforcement.
- \$16 million/65 FTE for Compliance Teams. As part of its overall immigration enforcement strategy, ICE will continue to analyze data generated through the Student and Exchange Visitor Information System and US VISIT program in an effort to detect individuals who are in violation of the Nation's immigration laws. This enhancement will increase funding for ICE's SEVIS and US VISIT compliance efforts by over 150 percent.
- \$14 million/90 FTE for International Affairs. Pursuant to Section 428 of the Homeland Security Act of 2002 and the Memorandum of Understanding between the Departments of Homeland Security and State, ICE's fiscal year 2005 budget includes an increase of \$10 million to support a new Visa Security Unit (VSU). The VSU and DHS staff stationed at overseas posts, including Saudi Arabia, will work cooperatively with U.S. Consular Officials to promote homeland security in the Visa process. In addition, an increase of \$4 million is requested to replace funding previously provided through the Immigration Examinations Fee Account.
- \$25 million to support Benefit Fraud. Immigration fraud poses a threat to national security and public safety because it enables terrorists, criminals, and illegal aliens to gain entry and remain in the United States and diverts resources and benefits from legitimate claimants. In cooperation with the U.S. Citizenship and Immigration Service (USCIS), ICE's goal is to detect, combat, and deter immigration fraud through aggressive, focused, and comprehensive investigations. This enhancement will provide stable funding to ICE's benefits fraud program by replacing funding previously provided through the Immigration Examinations Fee Account.

The President's fiscal year 2005 budget requests \$1.209 billion for detention and removal activities, which represents an increase of \$125 million from fiscal year 2004. Although this is an increase for the detention and removal program, we project a decrease in revenue collected in the Breached Bond/Detention Fund. Consistent with ICE's 10-year Detention and Removal Strategic Plan, these resources will be used to enhance public safety and national security by ensuring the departure from the United States of removable aliens.

The funding will also help ICE meet its detention needs. Since 1994, the average daily population of detainees has grown to more than 20,000, from less than 6,000. This rapid growth was a result of expanded enforcement capabilities and changes in detention requirements resulting from the Illegal Immigration Reform and Immigrant Responsibility Act of 1996. The fiscal year 2005 budget request will support the use of state and local detention facilities, the eight Service Processing Centers, the seven contract detention facilities, and joint DHS/Bureau of Prison facilities to detain those aliens subject to removal.

Our overall objective, however, is the removal of aliens unlawfully present in the United States, not their detention. In fiscal year 2003, ICE removed more than 140,000 individuals including 76,000 criminal aliens.

ICE is also committed to aggressively tracking, apprehending, and removing fugitive aliens, those who have violated U.S. immigration law, been ordered deported by an immigration judge, then fled before the order could be carried out. This budget request will allow ICE to continue its efforts to fulfill that commitment through the Fugitive Operations Initiative.

The President's fiscal year 2005 Budget request seeks \$108.2 million in total enhancements for the Detention and Removals Program. This includes:

- \$30 million/140 FTE for the Institutional Removal Program (IRP). The IRP is designed to ensure that aliens convicted of crimes in the United States are identified, processed, and, where possible, removed prior to their release from a correctional institution. This enhancement will further ICE's plans to expand the program nationally to all Federal, State, and local institutions that house criminal aliens, while ensuring more efficient processing and case management.
- \$50 million/118 FTE for Fugitive Operations. The resources requested are to continue the implementation of the National Fugitive Operations Program (NFOP), established in 2002, which seeks to eliminate the existing backlog and growth of the fugitive alien population over the next six years.
- \$11 million/30 FTE for Alternatives to Detention. This initiative provides the resources to establish additional non-traditional family and female detention settings and establish community supervision operations. This will provide ef-

fective supervision of persons released into the community during immigration proceedings or while awaiting removal in certain circumstances while reducing costs and ensuring compliance.

- \$5 million/14 FTE for detention bed space. An increase in bed space to accommodate the higher volume of apprehended criminal aliens. With this additional funding, ICE will enhance its ability to remove illegal alien—particularly those convicted of crimes while in the United States.
- \$6.2 million for Caribbean Region Interdiction. Pursuant to Executive Order, the Department of Defense, Homeland Security and State share responsibility for responding to the migration of undocumented aliens in this region. The resources requested will support the Department's share of the cost of housing migrants as they await determination of any immigration claims.
- \$6 million/40 FTE for the Legal Program Backlog Elimination. During fiscal year 2001 and fiscal year 2002, the Legal Program saw an average increase of 19,200 cases in the backlog of matters in Immigration Court. To keep pace with the increased number of cases, additional attorneys and support staff are required. This enhancement will provide a funding increase of more than 20 percent to ICE's backlog elimination program.

The fiscal year 2005 President's budget also seeks \$373 million in Air and Marine Operations (AMO) appropriations. AMO maintains a fleet of 133 aircraft and 82 vessels to protect the Nation and the American people against the terrorist threat and the smuggling of narcotics and other contraband. Aircraft are also used in support of ICE's combined investigation work.

An essential element of these deployments is the work carried out by the Air and Marine Operation Center (AMOC), located in Riverside, California. This state-of-the-art center is linked to a wide array of civilian and military radar sites, aerostats, airborne reconnaissance aircraft and other detection assets, which provide 24-hour, seamless radar surveillance throughout the continental United States, Puerto Rico, the Caribbean, and beyond. AMOC allows ICE to identify, track, and support the interdiction and apprehension of those who attempt to enter U.S. airspace with illegal drugs or terrorist objectives.

The President's fiscal year 2005 Budget request seeks \$40.5 million in total enhancements for Air and Marine Operations. This includes:

- \$28 million for Increased P-3 Flight Hours. P-3 aircraft are critical to interdiction operations in the source and transit zones as they provide vital radar coverage in regions where mountainous terrain, expansive jungles and large bodies of water limit the effectiveness of ground-based radar. This request will increase P-3 flight hours from 200 to 600 per month.
- \$12.5 million for Long Range Radar. Primary Long Range Radar provides position information (geographic/altitude) of airborne objects and flight data information to civil aviation, defense, and law enforcement agencies. ICE uses the radar to receive data for drug interdiction efforts along the southern border.

The fiscal year 2005 budget request includes \$478 million in reimbursable authority for the activities of the Federal Protective Service (FPS). The FPS provides for the security and related law-enforcement functions at more than 8,800 Federal facilities/buildings across the Nation. These funds will support several initiatives designed to protect Federal facilities from terrorist attacks, including a nationwide K-9 bomb detection program and another aimed at improving our capability to respond to weapons of mass destruction. FPS will also be able to improve its communication capabilities and enhance its intelligence sharing processes.

The fiscal year 2005 budget request includes \$613 million in Federal Air Marshals Service appropriations.<sup>1</sup> The FAMS transferred from the Transportation Security Administration (TSA) to ICE in November 2003. This movement of the FAMS to ICE will significantly increase the number of Federal law enforcement agents to deploy during times of increased threats to aircraft ultimately providing a surge capacity during increased threat periods or in the event of terrorist attack. To date, 176 ICE agents have gone through FAMS training and we anticipate training up to 800 by the end of the fiscal year. This cross-training creates a "surge capacity" to effectively deal with specific threats related to aviation security. And, on February 25, 2004, ICE and the U.S. Secret Service entered into an agreement that will bolster U.S. aviation security by providing a "force multiplier" to ICE's FAMS. Under the terms of the agreement, the Secret Service will provide the ICE FAMS with travel

<sup>1</sup> The President's Budget reflects a transfer of \$10 million from the Federal Air Marshals Service (FAMS) program to Science and Technology (S&T) for research and development. This consolidation of research and development funding in S&T will provide for greater oversight of research and development activities in the Department and enhance service to FAMS. This funding will be devoted to FAMS air-to-ground Communications project.

information for armed personnel traveling on U.S. commercial flights during their normal course of business and will enable the ICE FAMS the flexibility to deploy their Federal Air Marshals to a wider range of flights, while providing greater flexibility to conduct FAMS missions at maximum levels based on its concept of operations.

#### *Conclusion*

The fiscal year 2005 budget request for the ICE supports the President's National Strategy for Homeland Security, the framework for accomplishing our complex mission to protect the homeland, and ICE's mission to enforce immigration and customs law, locate and remove aliens unlawfully present in the United States, protect jobs for those who are legally eligible to work, maintain a nationwide anti-smuggling program, enforce laws against money-laundering and child pornography, and protect Federal property and air security.

While many challenges lie ahead, we continue to build and foster a premier law enforcement agency from the powerful tools and authorities we have been given. The men and women of ICE stand ready to continue to build a successful organization for the present and future. The fiscal year 2005 budget request provides the resources to enable ICE to manage its responsibilities and continue its work to secure the homeland to protect and serve the American people.

I look forward to continuing to work with you to accomplish these objectives while continuing to manage a world class law enforcement organization to protect this Nation against anyone who would do it harm. We are committed to preventing terrorist attacks and reducing systemic vulnerabilities that threaten the security of the country.

Mr. Chairman and Members of the Subcommittee, this concludes my prepared statement. I would be happy to answer any questions you may have at this time.

#### SHORTFALL IN FUNDING

Senator COCHRAN. I hope that during the first round of questions we will be able to limit our time to 5 minutes each. And that will give us all an opportunity to ask a second round of questions, if that is the wish and pleasure of the senators on the subcommittee.

Let me start by bringing up this issue of the shortfall in funding. In the Congressional Quarterly yesterday, Monday, March 29, there is an article that discusses this and carries some quotations from administration officials, a spokesman from the Border and Transportation Security Directorate, which suggested that there is not an actual shortfall in the funding. And the official, Dennis Murphy, is quoted as saying, "We're projecting that the spending rate may need to be slowed down. And we just need to take the foot off the accelerator a bit."

My question is: Is that an appropriate assessment in the judgment of this panel? I notice that it may be that not all of your agencies are affected by this. But I think Mr. Bonner's and Mr. Garcia's are.

Mr. Bonner, what is your reaction to that?

Mr. BONNER. First of all, I do not want to parse words here, but, I mean, there is not an actual shortfall, but there is a potential shortfall. Let me just say from the——

Senator COCHRAN. Press the button on your mike.

Mr. BONNER. Maybe it is just not close enough, Senator. Is that better?

Senator COCHRAN. Yes.

Mr. BONNER. Okay. I was just saying that without trying to parse words too carefully here, I think it is more appropriate to characterize this as a potential shortfall, not an actual shortfall. And the reason I say that is, I am going to speak just from the perspective of Customs and Border Protection here. And that is that

as part of what I do as a manager of the agency every year is to, at the end of the first quarter, I take stock, I get a report from my budget office as to where we stand. And I was concerned after the end of the first quarter review that with the rate of spending as to whether or not we were going to be within budget at the end of the year and not be deficient.

And secondly, the possible impact of the reconciliation of budget allocations between, potentially between, CBP and ICE, which is something, by the way, I believe that will be completed by the Department in the next several weeks. But I was concerned about that. And as a prudent manager of Customs and Border Protection, I directed that we curtail nonoperational travel, that we curtail nonoperational overtime, not overtime that is related to mission performance here. And I also believe that we should have a temporary suspension of hiring, except for Border Patrol agents at Customs and Border Protection, so we could get a clear picture of our spending rate and our budget.

And when I say temporary, I mean temporary. And that is that we would suspend—and we are just starting this. It would be a short suspension that could literally be several weeks. And then I would be hopeful that we would be able to resume hiring. I do not know. I mean, this will depend upon what our budget picture looks like when we take stock in 3 or 4 weeks.

But on the positive side, I do want to tell this Subcommittee that we did move out at the beginning of the year aggressively in terms of hiring new employees at Customs and Border Protection. And we have already hired, so any suspension here does not affect what we have already hired. We have already hired 2,700 employees. And these include 1,500 Inspectors, CBP Inspectors, 800 Border Patrol agents, and some other personnel.

And we are also looking very closely at the attrition rate here in terms of—right now, that looks pretty encouraging in terms of both the Border Patrol agents and CBP Inspectors. The attrition rates right now, if this holds up, are lower than projected. They are as low, by the way, this year as 5.5 percent right now for Border Patrol agents. And I think some of you know that the attrition at the Border Patrol was close to 20 percent just 2 years ago, when it was part of the INS.

So again, all that we are doing here is we are looking at this very, very closely. And we are making some temporary adjustments. And we will then have to make some decisions as to whether or not we can resume hiring or whether we have to suspend it further. But that would be my overall assessment, Mr. Chairman.

#### ICE RESPONSE

Senator COCHRAN. Thank you.

Mr. Garcia, what about the Bureau of Immigration and Customs Enforcement that you are responsible for? What is the effect of this on your agency?

Mr. GARCIA. Yes, Mr. Chairman. A similar effect to what Commissioner Bonner was describing. We have imposed a temporary hiring freeze. There is no category within ICE that is exempt from that at the moment. We have been hiring up to the point of the

end of the first quarter and imposed this, again looking down the road, looking at the spending rate.

But from the perspective of my agency, we are very much concerned with mapping issues, distribution issues, particularly in the IT context, services being provided, and mapping funding to the provision of those services are very complicated issues, if you look at the size of the legacy agencies that were involved, the services that were provided, and the split that we have accomplished very successfully. You can appreciate the complexity of those issues.

We are very much watching that process, optimistic that we will, working together, have firmer numbers within the next several weeks, that we can then reassess, as Commissioner Bonner said, again look at spending rates, look at the harder numbers, and see what are the steps that we need to take to be fiscally responsible, which may not, and we all hope will not, include a hiring freeze.

#### POSTPONING OR DEFERRING OF ANY PROGRAM INITIATIVES

Senator COCHRAN. Have either one of you had to postpone or defer any program initiatives, any activities that would defer initiatives that you had already planned or put in place? Have you postponed doing anything that you intended to do?

Mr. BONNER. We have not at CBP. And I hope we do not have to. But we have not at this point.

Senator COCHRAN. Mr. Garcia, what about you?

Mr. GARCIA. None of the new programs or operations. We have not gone forward with the 2004 enhancements as of yet.

#### IMMIGRATION SYSTEM

Senator COCHRAN. Thank you.

Senator BYRD. Our immigration system is underfunded and understaffed. The Bureau of Immigration and Customs Enforcement has just over 13,000 criminal investigators to locate and remove 8 million to 11 million illegal aliens. This is one among many responsibilities. Following the passage of the 1986 amnesty for 2.7 million illegal aliens, the INS had to open temporary offices, hire new workers, and divert resources from enforcement areas in order to process amnesty applicants. The result was chaos that produced rampant fraud.

The backlog of immigrant applications is larger today, 6 million and rising. The President's amnesty proposal would dump another 8 million immigrant applications onto an already beleaguered immigration system. It took only 19 temporary visa holders to slip through the system to unleash the horror of the September 11 attacks. The President's amnesty would shove 8 million illegal aliens through our security system, many of whom have never gone through any background check.

If there are no new resources in the budget to implement the President's amnesty proposal, implementation of the reform proposal would create incredible stresses on an already stressed border security system. It is a recipe for disaster.

## FUNDING FOR ENFORCEMENT ACTIVITIES

While I note that your budget has several modest proposals to deal with the existing enforcement shortcomings, would you inform the subcommittee how much additional money is included in the President's budget to implement your enforcement activities in support of the President's amnesty proposal?

This question is for Mr. Garcia.

Mr. GARCIA. Thank you, Senator Byrd. As a starting point, looking at the 2005 enhancements, we do have \$23 million for worksite enforcement related to the possibility of a temporary worker program. But I think there is a much more complex approach to whatever legislation, if any, is ultimately passed, which would be, one, we have split the INS apart and now have a mission focus on enforcement both at the border and in the interior, and a separate services bureau focused on providing that service.

We have made tremendous strides in that reorganization, focusing a very powerful enforcement tool on the enforcement mission within ICE and within CBP. We have reorganized within ICE. We have moved, are in the process of moving, excuse me, the Institutional Removal Program out of investigations and into Detention and Removal, which will free up additional investigative resources within that division.

All of these pieces moving forward look at how do we place integrity within our immigration system? How do we enforce visa security, US VISIT, our compliance enforcement operation, which we have again asked for an enhancement for in 2005. This is a complex, comprehensive approach to the shortcomings that you have described, Senator. So I cannot point to you one place in our budget where we would address any proposed legislation or where we would address specific shortcomings of the past. We are taking a comprehensive approach to those problems.

I would also add that we are very much alert to the possibility of fraud within the immigration system. I have taken steps to address that already. And we will very much look to participate in the process of crafting legislation that can ensure that whatever benefits or whatever program is designed gets to the people it was intended to get to.

I was a prosecutor in the Nineties. I prosecuted cases involving benefits fraud in some very unfortunate context. I know the risks firsthand. And I would very much feel the responsibility to participate in that process, to look at how that program is crafted and what steps we can build into it to make it less susceptible to fraud.

Mr. AGUIRRE. Senator, may I tag along to that, if I could?

Senator BYRD. Please.

## BACKLOG

Mr. AGUIRRE. Just a couple of comments. One, the backlog, Senator, is not 6 million. We have 6 million pending cases. But of those, 3.6 are backlog. In other words, they are behind our normal processing time. Now, that is plenty, but it is not 6 million.

## TEMPORARY WORKER PROGRAM

You mentioned the President's proposal as an amnesty. I do not consider it so. In fact, I think it is not an amnesty. I think it is a temporary worker program that would identify these 8 million individuals and would put them within a legal program where we would be allowed to do background checks. Indeed, these individuals are not within our radar scope today, but would be once they apply.

And there is mention about the fact that there is no provision in our Bureau for the President's proposal. Of course, there is not, because we are waiting for the Congress to flesh out, if you will, the details of the proposed legislation so that we can then put a fee that would be matched against the cost of processing these applicants. So in other words, once the Congress acts, and we certainly hope the action will come forth, we will match whatever work is required behind that legislation to charge the applicants for the cost of processing that application.

Senator BYRD. I appreciate your comments. I am of the opinion that the President's new alien amnesty program is quite ill-advised. If you are requesting any new resources, how much extra would be needed to implement this sweeping amnesty?

Mr. AGUIRRE. Senator, are you finished with your question?

Senator BYRD. Yes. Anyone.

Mr. AGUIRRE. I am sorry. I did not want to interrupt.

We are requesting additional resources, but not in relation to the President's initiative on the temporary worker program. The temporary worker program awaits congressional action. And until such time as the Congress tells us exactly what the Congress wants us to do, we really cannot build a program to suit it. Once that program is identified, we will cost it out. And there will be a fee associated with that. I expect that the fee will be 100 percent covering the cost of the program.

Senator BYRD. Mr. Garcia.

Mr. GARCIA. Yes, Senator Byrd. As I mentioned earlier, we have asked for \$23 million in worksite enforcement really to position ourselves, one, in an important area of enforcement for us, but to also set the stage, so to speak, for working with Congress on whatever legislation is passed and looking at, again, that integrity of the system, the counter-fraud efforts, that will match up with an effective temporary worker program, whatever the scope of that program is ultimately decided upon.

Senator BYRD. My time is up.

Senator COCHRAN. Yes, sir.

Senator Leahy.

## LAW ENFORCEMENT SUPPORT CENTER BUDGET

Senator LEAHY. Thank you, Mr. Chairman.

Mr. Garcia, to go back to the Law Enforcement Support Center, and as I said, I am very happy with those areas, especially Operation Predator among others, when I heard from law enforcement agencies and others around the country of the support they have gotten from that and how helpful it is to them, I want to keep it



helpful. Having begun my public career in law enforcement, I am very sensitive to what their needs are.

The President's budget proposal did not include a specific budget for the LESC. I would assume that the base budget from this year will be continued the upcoming year. But the demand increases all the time. How do you make sure that—I mean, the demand—the more—the LESC, success breeds success. The more they accomplish, the more they are heard about from other law enforcement, the more they get called upon, I think—I do not have the exact figures here, but I know you would find that the requirements and the requests continue to go up.

How are you going to do that? How are you—if the budget is the same, how are you going to keep up with the requests?

Mr. GARCIA. Thank you, Senator Leahy. A number of points. First, the obvious point is the LESC really is the crown jewel of our State and local cooperation efforts, tremendous facility, has seen an increase in responsibility, increase in workload, and an increase in the incredibly important information it puts out to the field.

You mentioned an increase in inquiries. They were up about 175,000 this year over the year before, an incredible number showing, I think, the realization on the part particularly of State and local officials of what a service the LESC can provide. We are committed to continuing to provide that service and enhancing our capability to do that.

You are right, the LESC budget is built into the base budget for the Office of Investigations. We have also set aside money, and I believe we have briefed some of your staff members on enhancements for the facility itself of up to, I believe, \$5 million for enhancements to that facility. We are also putting new programs within LESC. We recently moved the Central States Command Center from Chicago to Vermont, recognizing how efficient it is to have that all under one roof.

As we move programs, we move money with them. We mentioned Predator. We have set up the 800 hotline there in Vermont, incredibly successful. And I will give one example. We got a call into that hotline in Vermont, a citizen call, saying they believed that somebody was abusing minors in a house and that that person may have had AIDS. We responded with the local officials—it was in Massachusetts—out of Vermont to the local officials with our ICA agents, arrested the individual, charged him with sexual offenses against minors. And we launched an immigration detainer, because in fact he was an illegal alien. An example of the capability of the LESC, the response capability, and then the actual public safety benefit of that response. We are committed to expanding upon that capability. And I think the LESC is going to grow in importance.

And as you mentioned, Senator, as it does, we will look at the OI budget, we will look at resources we have allocated for these programs, and we will look at our ability to do that out of the LESC in more effective ways.

The example I give of the LESC benefit all the time is, a State trooper pulls somebody down, flags someone down on the side of a road. He is by himself. He is approaching that car. That trooper can call the LESC 24 hours a day, 7 days a week, and find out if

that person in the car is a reentering felon. Is that not information that trooper would want to know as they approach a car in the middle of the night on the side of a highway?

That is the type of service the LESC can provide. And again, Senator, we are committed to working with you, with Congress, to ensure that that center maintains a central role in supporting our colleagues and in supporting those new programs like Operation Predator.

Senator LEAHY. Well, I appreciate that. It is a sad story you tell of the situation in Massachusetts. Unfortunately, as you know and I know, it occurs in too many places. We all wish it did not occur at all. But to the extent it occurs, let us be thankful we can move quickly to stop it from continuing.

#### GUEST WORKER PROGRAM CONCERNS

Mr. Aguirre, I heard your answer to the question—I am still a little bit concerned—on this guest worker program of the President. You said if we passed this, we will assume that there will then be a request for funds to do it. But it is—I think we are getting kind of the cart before the horse. We are still waiting for the President's proposal. I mean, it is the President's proposal. It is not a congressional proposal. The President is the one who made the speech. It was done with a great deal of fanfare.

Are we going to get a proposal from the White House? I mean, I and others have asked for this for several months now. Are we going to get a request for a proposed legislation, or has the White House shelved this proposal?

Mr. AGUIRRE. Well, no, Senator, I think the White House has not shelved this proposal. I think the White House was very serious on January 7, when the President issued his call to the Congress to act. Subsequent to that, during the State of the Union and probably at least a dozen times that I can count, the President has mentioned again and again that he expects the Congress to act on his initiative.

Now the way I understand government, of course, I am coming from the private sector only 3 years ago, I see the Congress as enacting the legislation and I see the Administration as administering the legislative—

Senator LEAHY. Well, usually when the President has a proposal, especially one that they announce with such great fanfare, they actually send it up here. Other than the speech and the press releases and the handouts at selected fund raisers, we have not seen any legislation. Are we going to get legislation?

Mr. AGUIRRE. Well, Senator, the legislation that I have seen has been a number of bills that have been introduced by various members of the Congress. My understanding is that the legislation was expected to come from within the Congress, not from the White House. But the point is, Senator, I guess if you are looking to the substance—

#### BACKLOG REDUCTION ISSUE

Senator LEAHY. If that is the case and the President has also promised to reduce the average wait time for applicants for immigration benefits to 6 months, if you have these two goals, I mean,

this is an enormous, enormous increase in work. Why is there not any money being requested for either one of these things, either to get rid of the backlog or for this guest worker program of the President's?

Mr. AGUIRRE. Well, yes, Senator. If I may take them one at a time, I think the backlog is one that we have finally begun to get some traction on it. There will be a backlog reduction/elimination plan that will be coming to the Congress in the coming weeks. We expect to fulfill the President's commitment that I have inherited to eliminate the backlog by September of 2006.

As you very well know, after 9/11, that took a serious setback. And we are correcting that. And with the reallocation or repatriation, if you will, of many of the adjudicators that were sent on to do something else, I think we are going to get some traction here. We have already found some of our district offices meeting the backlog reduction. And we are continuing on as well.

I separate the backlog reduction initiative from the President's temporary worker proposal because I think they are apples and apples. I think we will be able to implement the program based on the Congress legislation that will be innovative, that will be technologically efficient, that will allow us to process people——

Senator LEAHY. But you need more funds.

Mr. AGUIRRE. I think we will need more funds through the fees that will be joining the application.

Senator COCHRAN. Senator, your time has expired.

Senator LEAHY. Thank you.

Senator COCHRAN. Senator Shelby.

Senator LEAHY. I have some other questions for the next round.

Senator COCHRAN. Absolutely. Sure.

Senator Shelby.

Senator SHELBY. Thank you, Mr. Chairman.

#### NUMBER OF ILLEGAL ALIENS RESIDING IN THE UNITED STATES

Secretary Garcia and gentlemen, I asked this other in my opening statement. What is your best estimate, Mr. Secretary, of the number of illegal aliens currently residing in the United States of America?

Mr. GARCIA. Senator, you mentioned some of the numbers earlier. The number, I think, that is posted on the website is 7 million. I have the 8 million number as well. I think it again reinforces——

Senator SHELBY. You do not really know, do you, honestly?

Mr. GARCIA. I think, Senator, it again reinforces your point that it is a very difficult number to identify because of what you are trying to quantify.

Senator SHELBY. Is that an increase or a decrease, say, from the previous year?

Mr. GARCIA. I could not give you that answer, Senator. I do not mean to be evasive. I do not know. I think it would be difficult to answer.

Senator SHELBY. Mr. Bonner, do you have a judgment on that?

Mr. BONNER. My judgment is that the numbers of illegal aliens that are successfully entering the United States has marginally decreased.

Senator SHELBY. And what do you base that on?

Mr. BONNER. I base that on the fact that the Border Patrol apprehensions—most, of course, the illegal migration, the spigot, if you will, is the southern border. The Border Patrol apprehensions last year were 931,000 illegal aliens apprehended. The vast, vast majority of that was at our border with Mexico. I believe that that number is to some extent a surrogate for the number of people that have successfully and illegally crossed our border. And that apprehension number, has been steadily declining for several years.

Now by the way——

Senator SHELBY. How do you get to the high number of 7, 8, perhaps 10 million? You know, we do not know the exact number.

Mr. BONNER. Yes. It is estimated between——

Senator SHELBY. If you are stopping everybody at the border, how are they getting in?

Mr. BONNER. We are certainly not stopping everybody at the border.

Senator SHELBY. I know that.

Mr. BONNER. No question about it. I mean, right now we have the Arizona border, which is substantially where there is mass migration taking place virtually every day. That is why we have instituted the Arizona Border Control Initiative, to get control of that.

But I would say this. If you look over the past number of years, we have, through Border Patrol increases, Border Patrol sensing technology, I believe with the adding of UAVs and some sensing technology in this budget, we are getting marginally better control over our border in terms of illegal migration. Now does that mean nobody is getting through?

Senator SHELBY. You used the word “marginally.”

Mr. BONNER. Well, we need to do a lot better.

Senator SHELBY. Okay.

Mr. BONNER. And it is very difficult to estimate the numbers of illegal aliens that have gotten through and that are adding to that base of illegal aliens that are residing illegally in the United States. But I would say that there is some reason to believe that we have gotten somewhat better control of the border. And I say this anecdotally.

Senator SHELBY. Sure, you do.

Mr. BONNER. Let me just tell you that I know that if you take significant parts, of the California border and the Texas border, where there have been substantial increases in Border Patrol staffing, improvements in the sensing and technology that is being used to detect illegal crossings, that we have better control over a lot of the segments of our southern borders than we did going back, say, 5 to 10 years ago.

We have to, by the way, we have to get better. I do not mean to say this nirvana here.

Senator SHELBY. I know that. I know that.

Mr. BONNER. So it is very hard to say. Probably 60 percent, by the way, is the estimate of the——

#### ADEQUACY OF RESOURCES

Senator SHELBY. Do you have enough resources? This was asked by Senator Byrd and others. Do you have enough resources to do

the job to protect our borders considering that there are probably 7 to 10 million illegal aliens in this country?

Mr. BONNER. If we cannot—do we have enough resources? We have, by the way, through this subcommittee and through the Congress and the President's request, we have been adding resources. We have a request here for a very significant amount of funding for better sensing technology to control better parts of our border.

I am very sanguine about the prospects through the use of unmanned aerial vehicles. For the first time, the Border Patrol is pioneering the use of UAVs. We will start that later this year, I believe, at the Southwest border. But it will give us much better detection capability against illegal migration across our Southern border. Potentially, as you know, because of the terrorist threat, we also need to be concerned about the Northern border, as well.

Senator SHELBY. Absolutely both.

#### IS THE CHALLENGE TOO GREAT?

Mr. BONNER. So we are moving in the right direction. But it is an extremely difficult thing. I actually think, by the way, if I could add, I think the President's temporary worker——

Senator SHELBY. It is the challenge. I respect all three of you. And I know you are dedicated here.

Mr. BONNER. Yes, sir.

Senator SHELBY. But is the challenge too great to win?

Mr. BONNER. No.

Senator SHELBY. In other words, we are losing. We are losing the war on illegal aliens now, if there are 7 to 10 million people here illegally that never had a background check, you do not know anything about them. And they are coming here. They are staying here. They are working here. And what does that say to the people who come here legally and go through the hoops?

Mr. BONNER. Well, I think——

Senator SHELBY. Like you did, sir.

Mr. BONNER. Well, perhaps Dr. Aguirre can respond to that. But I just want to say, Senator, that we can do this. We are, I believe, getting greater control over the border. We need to do that. If we cannot cut off the spigot for illegal migration coming in, well, we cannot ever address this problem seriously. Then we have to figure out what to do with the 7, 8, or 10 million illegals that are here in this country and figure out what is the best, from a point of view of practicality, realism, and policy, what is the best approach to that problem.

#### OVERSTAYS ON VISAS

Senator SHELBY. And what about—before my time expires, maybe you can answer afterward. What about the overstay on visas? People come here legally, millions of people come to this country legally. What do you do to track those people once they are here? How do you know they have gone back unless there is a central system checking?

Mr. BONNER. Customs and Border Protection is to prevent them from entering. And ICE has the responsibility——

Senator SHELBY. Mr. Garcia.

Mr. BONNER [continuing]. To remove them, if we have failed.

Mr. GARCIA. Thank you, Senator. We have the enforcement side of US VISIT that has been mentioned earlier. Last year, when we stood up ICE, we created a compliance enforcement unit, basically to put that integrity in the system. It looks at US VISIT. It looks at SEVIS, where we have had problems with students coming in, students not going to school, not attending, dropping out.

Senator SHELBY. Sure.

Mr. GARCIA. We have made tremendous progress on that.

Senator SHELBY. That is how a lot of the terrorists got here. They came here legally, did they not?

Mr. GARCIA. One of the Trade Center—

Senator SHELBY. Some of them overstayed their visas.

Mr. GARCIA. The driver of the World Trade Center bombing of the van in 1993 was a student who had come here on a student visa, had never gone to school. We take that very seriously. We have prioritized the leads using intelligence, using other information. We vet those at Headquarters, and we send those out into the field. We have been doing that for some time now. We are seeking additional funding in 2005 for that program.

Asa Hutchinson and I both believe that it is incredibly important in maintaining that integrity in the system, in addition to its national security implications.

Senator SHELBY. Thank you, Mr. Chairman.

Senator COCHRAN. Senator Murray.

#### LESSONS LEARNED FROM OPERATION SAFE COMMERCE

Senator MURRAY. Mr. Bonner, at the 2002 Western Cargo Conference, you said, and I quote, "The American people on the global trading system are more secure, if we screen cargo containers that present a high risk for terrorism as early as possible and certainly before they reach U.S. shores."

I really agree with that. And I am pleased that the two most prominent cargo security programs within Customs, C-TPAT and CSI, seek to push out our borders to foreign ports. Those programs will eventually help expand our various cargo security programs into a standard system for sending goods throughout the world. But they are not going to get the job done alone. We have now spent \$58 million on a program called Operation Safe Commerce, which is working to test the security of 19 different supply chains running through 5 different ports, which comprise the 3 largest load centers in the country. In fact, more than 80 percent of our cargo goes through those ports.

I think it is really imperative that we are able to learn from all of our port security programs. And we need to tie them together and rapidly instituted a large-scale operationally cargo security program in the United States.

Commissioner Bonner, would you tell the committee how you are planning to implement the lessons that we have learned from Operation Safe Commerce into an overall cargo security standard?

Mr. BONNER. I would be happy to do that, Senator. You and I have worked a lot on this issue. But first of all, Operation Safe Commerce has been a very valuable test bed for different kinds of technologies that would be useful in better securing the movement of particularly ocean-going cargo containers from various places in

the world to the United States. And as you indicated I think earlier, 8 to 9 million ocean-going cargo containers arrive at our U.S. seaports annually, including some of our major ports on the West Coast like Seattle and Tacoma.

But the approaches to take the lessons there to develop and essentially to improve even more the supply chain security regimen. And there are two key elements to that. One is, and I believe we can do this through the Customs Trade Partnership Against Terrorism, leveraging U.S. importers and foreign suppliers to increase essentially the point of loading security to meet best practices and standards at the point that the containers are actually loaded at foreign manufacturers' facilities, whether that is in Asia or Europe or elsewhere.

And secondly, using the lessons from Operation Safe Commerce to develop best practices and minimal standards, if you will, for a smarter, more secure container to be used in terms of the movement of those goods to the U.S. seaports. And when I say a smarter container, I mean one that, at the minimum, can be read by U.S. Customs and Border Protection Inspectors either upon arrival or at the CSI ports, as we expand those to more and more ports overseas, to determine whether it has been tampered with enroute.

So those are at least a couple of the things that we are looking at to see if we cannot implement to improve the overall security of global trade and movement of cargo to the United States.

#### REPORT DUE AT THE END OF THE FISCAL YEAR

Senator MURRAY. So we expect a report from them by the end of this fiscal year. And you are going to be using the information that they have learned from that to get to some kind of security standard.

Mr. BONNER. It is still being evaluated. But I certainly intend to. I believe, based upon the preliminary reports I have obtained, that there are some very useful things that have been done that are going to inform us and help guide us to an improved security of the movement of cargo.

Senator MURRAY. Okay. Well, I do want to work with you on that. There is still \$17 million to go out. They have spent a great deal of time, our taxpayers dollars and money on this. And I think we can learn a lot from them. We want to make sure it is used and used wisely.

#### INSTALLATION OF RADIATION PORTAL DEVICES AT PORTS OF ENTRY

Commissioner, let me also ask you, Customs is beginning the process of installing these radiation portal devices at ports of entry throughout the Nation. It seems to me it is a little bit late to check for radiation. Both the ports of Seattle and Tacoma are located right next to our downtown businesses and residential areas. And a ship bound for these ports travels through the Puget Sound before they get there. They pass by a major refinery compound, three Navy bases that each home port nuclear powered vessels, and a major petroleum tank farm.

Why have you decided, at least initially, not to push out the borders when it comes to this kind of technology? And can you tell us

if you plan on deploying these monitors to foreign ports that are participating in C-TPAT?

Mr. BONNER. I think our objective and our intention is to do both. In other words, we are talking about a layered defense in-depth strategy. But we do want to do everything we can, particularly given the catastrophic consequences of radiological weapons, to improve our ability to detect them when they are arriving at our borders. And this is, of course, our land borders. We have already deployed now almost 250 radiation portal monitors, very sensitive radiation detection equipment, along many places on our land border, particularly Canada. We are now expanding to seaports and so forth.

But at the same time, we want to make sure that containers, through the Container Security Initiative, as part of the security screening of those containers that are identified as posing potential risk for terrorist threat; and that is, potentially risk that a terrorist organization like the al-Qaeda could have concealed a weapon in those containers, that they are not only run through the large-scale X-ray scanning equipment, which is important to detect weapons, and potentially weapons of mass destruction, but they are also run through radiation detection. And that is part of CSI.

Now, part of radiation detection is radiation isotope identifiers, handheld devices, and the like. We have at one foreign port, working with the Department of Energy, we are doing what I call "CSI plus", which is to deploy radiation portal detection systems that have the capacity for being not only very sensitive, but detecting potentially every container moving into that foreign port, including all containers that are ultimately outbound to the United States. And we have done that, working with the Department of Energy. And I give the Department of Energy much credit here but working in tandem with our U.S. Department of Energy, we have done that at the first CSI port, which is the Port of Rotterdam.

And I do not know that that has been implemented yet, but I expect that it is going to be implemented within the next month or so. And so we do see that is what we want to do. If we can get these foreign seaports to install more sophisticated radiation detection equipment, it is something we want to do. We have started that. We have a long way to go.

#### PACIFIC NORTHWEST NATIONAL LABORATORY

Senator MURRAY. Okay. As you know, the Pacific Northwest National Laboratory is the contracting authority for installing those devices. Can you give us a quick update of their performance and how the project is progressing?

Mr. BONNER. Well, my assessment is that they have been very, very helpful to us in terms of helping Customs and Border Protection select the most appropriate and best radiation detection equipment that makes sense for a port environment. In the port environments, there are several port environments. There is the land border port environment and there is the seaport and the like.

So, they have been very helpful with us in terms of assisting us in terms of the testing and the selection and the actual installation of this equipment to make sure that we have the kinds of protocols that resolve when you do get a radiation hit. And we do get hits



on these things, that we can determine quickly whether it is an innocent radiation-emitting source or whether it is something that we need to be concerned about.

Senator MURRAY. Well, that goes to another question I had.

Senator COCHRAN. Senator, your time has expired.

#### PORTS

Senator MURRAY. Could I just follow up on his last comment? Because we have heard from a number of people in the ports that they want to know what happens when there is a positive reading from these devices and what the protocol is, you know, whether the facilities shut down and who is in charge of making those decisions. And if you could share with us what that is?

Mr. BONNER. There is a protocol and I will make sure that all of our CBP port directors make sure they have had that discussion within the context of the port security committees that exist at each port with the Coast Guard.

Senator MURRAY. Good. Thank you.

Senator COCHRAN. Thank you, Senator.

#### REQUEST FOR DETENTION AND REMOVAL

Mr. Garcia, one of the largest increases requested by your bureau is for detention and removal of people who are illegally in the country. It is an increase of \$108 million, just about 10 percent for this activity. Could you tell us what the specific needs are here and how you will use those additional funds?

Mr. GARCIA. Certainly, Senator. Detention and Removal is a very important program, a very important tool in enforcing immigration laws and maintaining the integrity of that immigration system that we were talking about earlier. A number of programs, I believe, were neglected in the past, particularly the Institutional Removal Program and the Alien Absconder Program.

If you look at the funding enhancements for 2005, that is about \$80 million of the dollar amount that you were speaking about. Institutional removal goes into the prison facilities, Federal, State, and also local facilities, and makes sure that we process illegal aliens or aliens subject to removal who are in those facilities. They could be very violent inmates, inmates with a history of violent criminal activity, predators, child sex predators.

We have done a good job in the past of reaching the Federal facilities, according to a GAO report, a fairly good job at the State level, and a not very good job, and one we need to make much improvement on, on a local level. We are looking to transfer that program out of Investigations into the Detention and Removal Division, where I strongly believe it belongs, and increase our capability to place those inmates into the system at an earlier time period so that we streamline the process and make it more efficient, so we are holding those inmates for less time before they are ultimately removed from the United States.

In fiscal year 2003, ICE removed 140,000 people from the United States. That is a very large number. It is a very large system. It needs improvement. The money in this request for enhancements will go towards that and making it more efficient.

Fugitive Operations. The number of fugitives estimated in the country range up to 400,000. Those are people with final orders of deportation who have not complied. A subset of that, about 40,000, again an estimate, criminal aliens who have not complied with final orders of removal.

We are very aggressively using fugitive alien teams to go after those absconders. We are prioritizing again, looking at the public safety value, going after those with a criminal record. Again, the biggest public safety value, we have a top ten list. We have been very successful advertising.

This money will go to increasing those Fugitive Operations Teams, we call them, 30 additional teams across the United States. So it is really again that comprehensive approach to looking at integrity of the system and recognizing that an important part of that is the detention removal system.

#### COOPERATION OF LOCAL AND STATE LAW ENFORCEMENT OFFICIALS

Senator COCHRAN. Are you successful in getting the cooperation of local and State law enforcement officials in helping you achieve your goals?

Mr. GARCIA. Yes, Senator. Again, you have to look at the are. And there is a wide range of options available. At one side of the spectrum is States that want to actively participate in enforcement. And there is a provision, 287G it is called, for doing that, where we provide training to local officials. And we did it in Senator Shelby's State most recently.

The LESC that I spoke about earlier provides another opportunity for cooperation. Anti-gang work, we have been very successful working in Chicago, L.A., Charlotte in anti-gang work, working with State and local officials. So there is a very wide spectrum to that cooperation.

I believe that the Institutional Removal context is an area where we can do more working with the States. It is a benefit to both. It makes our work more efficient, where the States will flag or bring to our attention inmates who should be in our system. And we can remove those criminal aliens from probation or parole systems that cost the State money in terms of supervisory dollars. So I think that is an area where we are going to move much more aggressively in the State and local cooperation area.

#### ACKNOWLEDGEMENT OF HARD WORK AND SUCCESS

Senator COCHRAN. Well, I want to commend you for the hard work and the good job you are doing, your bureau is doing. I think we have seen a lot of new initiatives developed and a lot of success stories that have not gotten the attention they probably should have.

Mr. GARCIA. Thank you, Senator.

#### UPDATING CITIZENSHIP PROCESSES AND LOOKING AT THE TEST THAT IS GIVEN TO THOSE SEEKING CITIZENSHIP IN THE UNITED STATES

Senator COCHRAN. Mr. Aguirre, I know that you are in the process of updating citizenship processes and looking at the test that is given those who are seeking to obtain citizenship in our country.

Could you tell us a little about what you are doing in that area and whether there are any additional funds requested to support those activities?

Mr. AGUIRRE. Well, yes, Senator. Thank you. As mandated by Congress, we have instituted an Office of Citizenship, which is actually responsible for the citizenship aspect of immigration or, if you will, the naturalization aspect of immigration. That office is looking at various aspects. One, we are trying to make the test of citizenship a better process. It is a good process now, but I think it can be improved.

We have gone through a pilot project last year to look at better ways to deal with the English portion of the test and see how we can have a more meaningful process. That pilot is now back. We have had some very good reports from some of the NGOs. And we are trying to fine tune and see how we can make it better.

Additionally, there is a provision for history and civics, which is also part of the test that an applicant must go through before they are granted naturalization. We are looking at ways to see if we can make it a more meaningful approach where the questions are not the end, but the end is the learning and the question is part of the component. And to that end, sir, we are working with academicians. We are working with historians. We are working with the Department of Education to see how we can do the learning a more meaningful aspect, particularly since many of these applicants are slow in their English knowledge. We want to see how we can improve their understanding of what it is to be an American, not only from an historical standpoint, but also the civic responsibilities that one assumes when they become a citizen. That is all part of the element. And yes, sir, we do have an inclusion in our budget to accommodate that.

Senator COCHRAN. Thank you very much.

#### REQUEST FOR THE CUSTOMS TRADE PARTNERSHIP AGAINST TERRORISM

Mr. Bonner, there is a request for an additional \$15 million to expand the Customs Trade Partnership Against Terrorism. Could you tell us how these resources are going to be used and what the purpose of that program is?

Mr. BONNER. Yes, Senator, Mr. Chairman. It is essentially two-fold. One is to be able to expand the validation of the C-TPAT partners. In other words, they enter into a commitment with U.S. Customs and Border Protection to take certain mission measures, best practices, to improve their supply chain security literally from their foreign vendors to our ports of entry. And we want to, as the old saying of some former President was "trust, but verify." So we are expanding our validation capability, so we are doing more validation.

And as we validate, more people understand that this is not window dressing. This is serious stuff. If you are going to get expedited treatment upon arrival, you need to take these measures that you have committed to take. So part of it is for that. Part of it is to further expand the base of C-TPAT partners. We already have 5,900 companies, including many of the major U.S. importers that are part of C-TPAT. In fact, the importers alone are about 3,500.

These are major importers that account for over 40 percent or more of the all of the incoming cargo coming into the United States. So it also will be funding to expand and administer the program.

Senator COCHRAN. Thank you.

Senator Byrd.

Senator BYRD. I believe, Mr. Chairman, that this will complete our series of hearings, will it not?

#### KUDOS FOR CHAIRMAN COCHRAN

I want to thank you Mr. Chairman for conducting these hearings as you have. It should also be noted that the chairman always calls on the other members of the committee to ask questions, and then he allows a second go-around. He does not ask his questions until the other members have asked their questions, and sometimes it is 2 hours before he asks his questions. So, that courtesy should not be overlooked. I have observed it, and I thank the chairman for the courtesies that he continually extends to the other members of the committee. He is a good chairman. He is not only fair to his colleagues on the committee, but he is also very fair and considerate of the witnesses.

#### IS THERE MONEY IN THE PRESIDENT'S BUDGET TO IMPLEMENT THE PRESIDENT'S AMNESTY PROPOSAL?

Earlier, Senator Shelby asked whether there is money in the President's budget to implement the President's amnesty proposal. I do not believe that we got a complete answer, and this is nobody's fault. Mr. Aguirre said that immigration services would be paid for with the new fees. I accept that. But we did not hear, I do not believe, from Mr. Garcia or Mr. Bonner.

Certainly there would be higher costs for security background checks, for guest worker enforcement, for removal of aliens, for workplace enforcement, and for increased travel across the borders. The modest increases in the budget will barely keep up with current needs. What will the increased costs be, if the President's amnesty program is approved? And why are these funds not in the budget?

Mr. Bonner, do you want to take a shot at that question?

Mr. BONNER. Well, first of all, you are right, Senator Byrd. There are no funds, per se, in the CBP budget for the Temporary Worker Program that has been proposed. And I would make the comment that from a CBP perspective, and as the President has indicated, that if there were to be a Temporary Worker Program enacted, it would have to have a very strong border enforcement for a security aspect to it.

And right now, we, of course, have a sizable Border Patrol. I discussed with Senator Shelby that we have a ways to go here. But I do think one thing that has been lost is that in the Temporary Worker Program proposal, that it does hold the promise, I think, as outlined, if you had a Temporary Worker Program, it potentially could relieve some of the pressure at the border in terms of illegal migration and give us a better ability to control the border, Senator Byrd. And that has always been important as a national objective of the United States.

But let me tell you right now it is absolutely essential, because we need to reduce the flow of mass migrations at our Southern border in order to increase our prospects for identifying and apprehending terrorists who may be attempting to illegally enter our country. So I do think that there is a policy aspect to this that could help us get a better and firmer control of the border, which we need for homeland security purposes.

But once if there were a bill that took final shape, obviously I would like to have an opportunity to discuss initially within the Administration what I think would be needed to better control the intake spigot, because we ought not to have a Temporary Worker Program and still have, whatever it is, 300,000 or 400,000 illegal aliens entering our country to both seek jobs or for other purposes.

Senator BYRD. Are you in a position at this moment to submit an estimate as to the resources that would be needed?

Mr. BONNER. I certainly do not have it at my fingertips, but I would certainly, if you requested it, I would take under advisement as to how we might be able to get that information to you.

Senator BYRD. Would you do that for the subcommittee?

Mr. BONNER. I will make every effort to do it. Obviously, Senator, I will also have to work this through the Department and through the Administration. But I will make every effort to get you that information.

Senator BYRD. Very well. If you would, please.

#### ICE RESPONSE

Mr. Garcia, would you make an effort along those lines?

Mr. GARCIA. Just to clarify, Senator, looking for a number in terms of enforcement on the President's Temporary Worker proposal? I would echo what Director Aguirre said in terms of without the outline and without the participation and structuring how that is enacted and how it rolls out, it would be very difficult to speculate as to the resources needed to enforce it. I think the most productive area to go here, again, is to lend our expertise to the process.

And again, looking at the lessons learned, and I think you mentioned a few in your earlier remarks, of other legislation in the past to see how we can build in provisions that will limit the amount of fraud, anti-fraud work investment we need to make, and then again to look at what is the scope of the legislation, how will that affect the population that is in the United States in our ongoing enforcement efforts, and then to calculate what do we need to ensure the integrity of the system that we have all been talking about.

I think without concrete provisions or at least an outline of where that legislation is going when enacted, it would be a very difficult exercise to calculate the amount of money we would need on the enforcement side.

Senator BYRD. Well, it sounds to me as if the President was just posturing when he proposed an amnesty program. Nobody seems to have in mind a figure as to what this is going to cost. Certainly Congress is going to need to know more than you are able to tell us. You do not seem to have the slightest idea as to what this is going to cost. We are going to need to know these things.

## BUDGET REQUEST FOR THE FEDERAL AIR MARSHALS

All right. The budget request for the Federal Air Marshals is essentially a flat-line request similar to last year's funding level. Yet, on two occasions in less than a year, late last summer and again over the recent winter holidays, the threat level was raised to Code Orange, in large part because intelligence and other indicators led the department to believe that there were enhanced threats to the United States via airplanes flying into or over this country.

However, based on budget briefings with my staff, I understand that the resources directed to this program are not sufficient to hire the number of air marshals needed to maintain a more robust presence on targeted flights. On March 9, I wrote to Secretary Ridge expressing my concerns about the potential that we may not have sufficient personnel to cover a significant percentage of targeted flights this year, and that this problem will only be compounded given the inadequate funding requested in the fiscal year 2005 budget.

While we are unable to talk in specifics, I am concerned about the inability of your agency to, at a minimum, replace retiring air marshals. Are you aware, Mr. Garcia, of my letter to Secretary Ridge?

Mr. GARCIA. I became aware of it in preparation for this hearing, Senator.

Senator BYRD. Do you know when I will get a response to my letter, ensuring me that the Department will maintain a robust staffing level of air marshals?

Mr. GARCIA. I will follow up with that, Senator, and get back to you. Obviously, you share, as the Department, your concern, the importance you place on the air marshal program.

Senator BYRD. If my understanding of the Air Marshal budget and the status of the Air Marshal program is even close to being accurate, why are you not requesting more funding for hiring additional Air Marshals, ensuring that they receive advanced training, and increasing the tools at their disposal for the protection of airplanes and their passengers?

Mr. GARCIA. Senator, I think, as I mentioned earlier, the Air Marshals are our newest division within ICE. They came to ICE, I believe, in early November this past year. We are in the process of looking at the Federal Air Marshal Service as a law enforcement division within ICE, seeing how we can support their mission and how they support the broader ICE goals.

We are looking at a number of different things. You mentioned code orange. During the most recent threat level, the raising of the threat level most recently, we in fact were able to deploy ICE agents who had been trained as Air Marshals to fly, I believe, more than 300 missions with the Air Marshals and increase their capacity. So we are looking at a number of different things.

One of the things we are looking at very closely, as you know, and I believe you have been briefed, are our budget issues and our future looking down the road at the FAMS and what their capabilities are. That is an incredibly important mission, as I mentioned earlier, in ensuring civil aviation security. I look forward to work-

ing with this Subcommittee on the very important issues facing the Air Marshals and continuing to support that vital mission.

Senator BYRD. How is my time running?

Senator COCHRAN. Your time has expired.

Senator BYRD. All right. Thank you. I am glad I didn't ask the question earlier.

Senator COCHRAN. Thank you very much, Senator.

Senator Shelby.

#### VISA OVERSTAYS

Senator SHELBY. Thank you. I want to go back on the visa overstay. How many people come into this country legally each year? That is, as a student, business, vacationing, so forth. It has to be in the millions.

Mr. BONNER. Tens of millions.

Senator SHELBY. Tens of millions. So they get a visa to come to this country most of the time, do they not?

Mr. BONNER. Yes, Senator. They get a visa unless they are traveling into the United States from a visa waiver country, in which case they would not require a visa.

Senator SHELBY. And how many countries do we have visa waiver agreements with?

Mr. BONNER. The last time I checked it was about 16 or 17. Do not hold me to the exact number, but in that ballpark.

Senator SHELBY. Do any of those countries come out of the Middle East?

Mr. BONNER. No, I do not believe there are any countries on the Middle East that are visa waiver countries anymore.

Senator SHELBY. Okay. Now how many—how do you keep up with—let us say there are tens of millions. Is ten million too few people?

Mr. BONNER. Oh, on an annual basis, there are more than that that come in under visa—

Senator SHELBY. Twenty million? Twenty-five million? Just give your best shot.

Mr. BONNER. I think it is probably around 30 million.

Senator SHELBY. Thirty million people.

Mr. BONNER. Let me do it this way: It is 30 million through our international airports, more or less.

Senator SHELBY. Thirty million people.

Mr. BONNER. When you talk about our land borders, you are talking about even more gigantic numbers of people that are coming in with temporary worker cards or with visas.

Senator SHELBY. Okay. Now how do you keep up with this huge number of people? Do you have the resources, one, to keep up with it? Let us say I came in, and had a visa. How would you keep up with me? And let us say I came from a country that did not require a visa, and I come in and they stamp my passport. How do you know if I ever leave, is what I am getting at.

Mr. BONNER. One of the great accomplishments of the Department of Homeland Security has been that at our international airports we have instituted the US VISIT program and technology. And so we know everybody that is coming in with a visa at the time they are presenting themselves to a CBP inspector at our

international airports. One, whether they have been issued a visa. We actually have on the screen the visa with their photographs. We take a biometric, which are the two fingerprint scans. And we can determine with virtual certainty that the person presenting themselves to us is the person who was issued the visa in the first instance by the State Department.

Now we did not have that capability before.

Senator SHELBY. Sure. I know.

Mr. BONNER. By the way, we also have a 994 form, that has some information in it that is not fully automated about the person.

Senator SHELBY. You are talking about tools. You are getting better tools, I understand, to deal with.

Mr. BONNER. Yes, sir.

Senator SHELBY. And that is good. And you are probably going to need more. But my real thrust here is, if you have and I will just use 30 million people coming to the United States, and you have an entry stamp for them, you know that they come in, do you have a correlation to when they leave? And is that closed, in other words?

Mr. BONNER. Well, we have some correlation there, because if they—

#### WHO IS IN THE COUNTRY LEGALLY AND OVERSTAYED?

Senator SHELBY. You see what I am getting at. In other words, do you really know who is in this country legally, that come legally and over stay?

Mr. BONNER. Well, the answer to that one is that we do not know everybody that has overstayed visas that has come into the United States, because there is not a fully perfected automated exit system at this point.

Senator SHELBY. Sure.

Mr. BONNER. We are starting the prototype of that through the Border and Transportation Security Directorate of the Department by trying to model that at airports. And then to have a complete system, we will obviously have to include the land borders. So the answer is—you know, by the way, ultimately—

Senator SHELBY. The answer is no, you do not have it.

Mr. BONNER [continuing]. If they get into the country—

Senator SHELBY. Is that fair?

Mr. BONNER. If they get into the country—

Senator SHELBY. Mr. Bonner.

Mr. BONNER. Yes. Yes, sir.

Senator SHELBY. Is the answer, as we speak today, as you speak today, the answer is no, you do not have the system in place to really keep up with it.

Mr. BONNER. Not a foolproof system. We have a system.

Senator SHELBY. Sure. We know you have a system.

Mr. BONNER. But it is not a system that tells us that everybody that has entered on a visa for a period of time has not overstayed that visa. And if they have overstayed, then we have issues of identifying who they are, where they are. And then, as Assistant Secretary Garcia was saying, ICE then has the responsibility for es-



entially locating and removing. And there are huge numbers we are talking about.

Senator SHELBY. And how many? Let us assume of the 30 million that come in, that there are a lot of people that do not go back. I do not know how many, but it has to be heavy.

Mr. BONNER. That overstay their visa.

Senator SHELBY. Sure, overstaying their visa. What do you do about it? And how many have you found and deported that have overstayed their visa?

Mr. BONNER. I will give you a way of looking at that. And that is and again, these are estimates.

Senator SHELBY. No. I do not want to just look at it. We want to know. Go ahead.

Mr. BONNER. Yes. But let us start with what are some estimates. Senator SHELBY. Sure.

Mr. BONNER. And that is, if you estimate that there are 8 million people that are illegally residing in the United States, and the figure might be higher, but if it is 8 million, the estimates are that about 40 percent of those are visa overstays.

Senator SHELBY. Okay.

Mr. BONNER. So 3 million plus. And then the question is, well, how do you prioritize that, particularly in light of the terrorist threat, criminal aliens and the like, to devote resources to go after them. And I do not think the resources are necessarily sufficient to do that. But ICE is the one that has the resources and the responsibility. And I do not mean to pass the buck here in any sense, but it is an issue then as to—

Senator BYRD. We do need to talk about the bucks. That is what the senator is trying to find out.

Senator SHELBY. We are trying to get to the bottom of this. What are the real numbers? What are you doing about it? And if you are not doing a lot about it, and obviously you are not doing what you could, what do you need? Do you need resources to do it?

Senator COCHRAN. Do you want to answer that?

#### ICE RESPONSE TO OVERSTAY QUESTION

Mr. GARCIA. Yes. Thank you, Senator. To pick up, I guess, where Rob left me, since the initiation of NCR or SEVIS, a tremendous amount of information has been generated. You hit on it, Senator, when you say our exit controls. And Commissioner Bonner was talking about it. We get these leads in. We have had 20,000 NCR US VISIT now, SEVIS leads, resolved at headquarters. Out of that group, we have sent 1,200 leads out into the field to be resolved in our field offices.

We have to take the indications of overstay and violations. And then we have to check the systems. We have to look at the exit data. And we have to do follow-up. And we have to prioritize.

Senator SHELBY. Excuse me. If it is 40 percent of the illegal aliens, just use that for an example, of 8 million, that is 3 million, a little more than 3 million, if it was 8 million, 40 percent of that, 3 million overstays. It seems that you are just overwhelmed. If there are 3 million illegal aliens here because they overstayed their visas and you do not know where they are—maybe you know who they are, because there is no exit, or maybe you do not know that.

I am not here to call you down on it, because I know you are sincere and you are competent. But I think you have a tremendous problem, or we do in this country.

Mr. GARCIA. A long time to get to that population, looking at the past and the future. I had one particularly egregious case last week where someone was in overstay from 1986, committed a horrendous act against a 3-year-old child in Maryland. So that shows you the scope of how far back we are looking.

Going forward, which is a little bit different conversation that we have been talking about here with the new US VISIT, the new SEVIS system—I know, Senator, you are familiar with the old systems and how much of an improvement this has been. We are working with that prospectively to look at these 20,000 leads and the 1,200 we have sent out to put deterrence into the system, which was not there before, I believe.

Then you look at the past. And you say: How do we prioritize that child sex predator that has been here since 1986 and the other ones that pose a public safety risk? How do we work with whatever legislations? How do we address that all in a meaningful way? And I think that is what we are all working towards here at the table.

#### DOES ICE HAVE ENOUGH RESOURCES TO HANDLE OVERSTAY?

Senator SHELBY. But my real question, do you have enough resources to do that?

Mr. GARCIA. Yes, in where we are going. And if you look at the initiatives we have asked for, there is compliance enforcement enhancement there. We have been doing that, building that out of base up till now. We are asking for \$16 million coming here to look at processing more leads and building a targeting system that is even more meaningful. Because again, enforcement is partly deterrence. And we have to send that message out.

Senator SHELBY. Thank you for your indulgence, Mr. Chairman.

Senator COCHRAN. Senator, thank you.

I have two final questions and other senators may have other questions. We are going to have a vote, I think, at about 12:15 on the Senate floor. So we are about through, if that is any consolation to you.

#### \$64 MILLION REQUEST FOR SENSOR AND SURVEILLANCE TECHNOLOGY

I notice in the budget request there is \$64 million being requested for sensor and surveillance technology. There is technology currently deployed between the land ports of entry, but you are developing a project plan for the \$64 million request, as I understand it. Do you have any idea what the total cost of finishing the installation of sensor technology is going to be? Mr. Bonner, I guess that is a question you should answer.

Mr. BONNER. It is, because this is sensoring technology for the Border Patrol to better control and detect against illegal crossings by illegal migrants, drug smugglers, potential terrorists. And the \$64 million is going to help us immensely in terms of expanding the things like the remote video system and the ISIS system and the ground sensors that we use at strategic places along the Southwest border. And of course, unfortunately since 9/11, we have had to give more attention to our Northern border with Canada, too, in

terms of understanding who and what may be crossing that border, so that the Border Patrol is then able to respond and apprehend those that illegally cross our borders.

But you are asking me what the total is. I do not have the number. I mean, the goal is to have sensing technology, which could include ground sensors, the sophisticated camera sensing systems, plus UAVs, and we have funding for that. To give us a more comprehensive picture, that is the goal, of illegal penetration of our borders at the most vulnerable areas. I mean, there are some areas of our border that are, for example, I mean, in the Rocky Mountains on the Canadian border during the winter it is virtually impassable. So we are looking at it in terms of where the vulnerabilities are. The goal is to expand the sensing system to give us sufficient visibility that we have substantial control over and detection capabilities for people moving across the border.

Mr. Chairman, what the total number is, I do not have it right now. It would be more than the \$64 million that is being requested in the 2005 budget request.

#### \$10 MILLION REQUEST FOR UNMANNED AERIAL VEHICLES

Senator COCHRAN. There is also an indication that you need funding up to \$10 million to develop a system of unmanned aerial vehicles to support the Border Patrol and other components of Customs and Border Protection. Are you proceeding now to use funds from other sources under your control in order to get moving on this program in connection with the Arizona Border Control Initiative, for example?

Mr. BONNER. Yes, we are. And even in 2004 we are proceeding to develop and actually deploy an unmanned aerial vehicle in support of the Arizona Border Control Initiative to better control the Arizona border. And I believe that we are going to be able to do that sometime by the May/June time frame, actually deploy a UAV that will cover and detect along a significant portion of the Arizona border. The funding for this is not in our budget. But we have identified funding through Under Secretary Hutchinson and the Department of Homeland Security through the Science and Technology area to essentially pilot and determine how effective a UAV is in terms of detecting. So that in 2005, we should be able to have a good understanding of what we need to actually deploy on a more permanent basis on the Southwest border at particular critical segments, as well as on our Northern border with Canada.

Senator COCHRAN. Mr. Garcia, I think the Coast Guard and Air Marine Program within your bureau have tested the concept of unmanned aerial vehicles in their operations. Is your experience going to be shared, or will this be communicated to the other agencies so they will have the benefit of your understanding and your experience?

Mr. GARCIA. Absolutely, as far as the Air and Marine goes. We are working down in Arizona. And I am working very closely with Commissioner Bonner.

Senator COCHRAN. Senator Byrd, those are my last two questions.

Senator BYRD. Thank you.

Senator COCHRAN. I yield to you for whatever time you need.

Senator BYRD. Thank you, Mr. Chairman. I will submit most of my remaining questions for the record. I do have two that I will ask at this time. Then we will go to the floor for our vote.

CONTINUED DUMPING AND SUBSIDY OFFSET ACT TRADEOFF

On March 19, Commissioner Bonner, CBP issued its annual report for 2003 on the Continued Dumping and Subsidy Offset Act Trade law. This is a law that I helped to enact that allows Customs and Border Protection to reimburse U.S. companies that have been injured by unfair trade practices with funds that are collected as import duties on unfairly traded imports. CBP's report states that, while CBP should have distributed at least \$320 million in collected duties to eligible U.S. companies and workers in 2003, it was able to distribute only \$190 million.

CBP failed to collect \$130 million from unfair traders. Most of the uncollected \$130 million consists of import duties not collected by CBP on goods from China in particular. While part of the problem is that Chinese companies are refusing to pay these duties, it also appears that CBP is failing to enforce the U.S. trade laws, because it is not diligently pursuing the parties who are refusing to pay these duties. Why is CBP not collecting millions of dollars in duties on unfairly traded imports as required by U.S. law?

Mr. BONNER. First of all, we take very seriously at Customs and Border Protection, Senator Byrd, our responsibilities under the Byrd amendment. And I believe that the answer to that lies in essentially three factors, most of which are beyond the control of Customs and Border Protection. The first factor is that when there is a preliminary proceeding against a Chinese company, and these are mainly agricultural products, and it is the then Commerce Department that determines what the preliminary antidumping duty rate is going to be. And in many instances, as I think you know, it has turned out that when there is a final order, the antidumping duty rate is much higher than the Commerce Department originally set.

So that means that the bonds, the Custom bonds, that were to secure the payment of the antidumping and/or countervailing duties in many instances were not adequate.

Secondly, the Chinese companies in many instances have essentially not come in and defended the antidumping charges. And therefore, that has resulted in punitive antidumping duties being levied at a much higher rate.

The second factor is that once the antidumping duty final order is entered by the Commerce Department, we have found that the companies that were in China that were shipping the garlic, the mushrooms, or the other agriculture products, those companies simply fade into the woodwork and new companies appear. So they are changing, essentially, new shippers. And under the Commerce Department rules, unless you can show that the new shipping company is, in fact, an alter ego of, owned or controlled by the shipping companies that are subject to the antidumping duty, they are not viewed as having to pay the antidumping duty.

And the third thing, unbelievably, is that for the inability to collect this \$130 million more or less that you have talked about is the fact that surety companies that have been approved by Treas-

ury Department, a number of them, including one large one in Los Angeles, have essentially defaulted. In other words, they were standing behind bonding these shipments. And they are not in a position to pay.

So the long and short of it is, we clearly need to do better. We are engaged with the Commerce Department to address those two issues, and with the Treasury Department to address the issue of the adequacy of the surety, to have a better chance of recovering more of the antidumping duties.

That said, by the way, I still think, given the system, no matter how hard we try to approach this issue, it is very difficult for me to sit here and say that we are going to be able to collect 100 percent of anti-dumping duties that are ultimately assessed in final orders by the Commerce Department. We are going to do our best, and we are doing our best to do that.

#### WHY IS CHINA MORE OF A PROBLEM?

Senator BYRD. Why does the problem seem to involve more imports from China than from any other country?

Mr. BONNER. Well, first of all, I mean in one sense, leaving aside Canada, more goods are imported from China than any other country of the world to the United States. China went into second place behind Canada in terms of volume of imports into the United States last year, according to Customs and Border Protection data. It surpassed Mexico, which had surpassed Japan. So more of our imports are coming from China.

Secondly, we are concerned from an enforcement point of view that, particularly in this area that you are describing, at least some companies, particularly with agriculture products—and we have also seen illegal trans-shipments of textiles and that sort of thing through essentially other countries from China. We are concerned that it probably is the number one enforcement issues for both antidumping duties and for evasion of U.S. trade laws that relate to textiles.

But part of it is, they are a major exporter. And part of it is that we need to enforce the antidumping duty laws, which ultimately under the Byrd amendment result in funds to the injured U.S. industry. So we are committed to working on this. And we clearly have some work to do to make sure that our rate of recovery is higher than it is right now of the antidumping duties.

Senator BYRD. All right. I hope that you will carry out that commitment vigorously.

Mr. BONNER. Yes, sir.

#### INTEGRATED FINGERPRINT DATA BASES

Senator BYRD. I have one final question now, Mr. Chairman.

During our March 9 hearing with Secretary Hutchinson, the issue of integrating fingerprint databases was raised by subcommittee members of both parties. The ability of illegal aliens and criminals to slip through our inspection and investigation webs and do harm to U.S. citizens has been amply documented. It is of the greatest concern to me and should be one of the department's primary goals.

At one point, Secretary Hutchinson stated that the fingerprint databases would be integrated by the end of the year. At another point, he said that the department would find the necessary \$4 million or so to ensure that border patrol agents had access to this information at all of the sites.

I want to make sure that what he said would be done can actually be done. Earlier this year, the Department of Justice's Inspector General said it would take several years to achieve the goal of fully integrating the Justice Department's two-fingerprint system, known as the Automated Biometric Identification System, or IDENT, with the FBI's IAFIS fingerprint database. But, Secretary Hutchinson said that it was a priority and would be done in a matter of months.

Now who is right?

Mr. BONNER. Well, I think Under Secretary Hutchinson is right here, if I understand what the issue is. And I believe the issue is whether and how long it will take us to integrate the IDENT and IAFIS system for at least our front line, which is our border line, and at least at some of our ports of entry for inspectors. And in that regard, Senator Byrd, there is an integrated system that essentially permits the integration of both IDENT and IAFIS. And that system allows, for example, at a Border Patrol station, allows the ten prints that are taken to be run against both the IDENT and the IAFIS system.

The IAFIS, of course, as you know, is the FBI's master criminal fingerprint system in Clarksburg, West Virginia. And also at the same time run against the IDENT database. So the question is a deployment issue for CBP. And I am not talking about State and local law enforcement here. I am just talking about Customs and Border Protection.

And I believe right now, we have deployed some of these integrated systems to Border Patrol stations. We have deployed about 96 integrated systems to 31 border patrol stations. The plan is to deploy 255 of these integrated systems, which would be to all of the Border Patrol stations by the end of the year. Now that might not be this fiscal year but it may be the end of the calendar year.

And then secondly, we have had IAFIS systems at 48 of the major ports of entry. Of those 48, 27 can do both, run against the IDENT and the IAFIS system. And we plan to have the integrated system, if you will, at all 48 of those ports also by the end of the year. So we do have an integrated system.

Now the only thing I can tell you about the Justice Department, is that it may be that for purposes of State and local law enforcement having the capability of running prints through both IAFIS and IDENT, it may be that that is going to take longer. I do not know the answer to that. But perhaps that is going to take several years.

But I know for CBP, which is the front line agency of the U.S. Government at our borders, we are making excellent progress in terms of rolling out that integrated system. With the right procedures in place, it will give you a better means of protecting against criminal aliens being able to get into the United States.

Senator BYRD. I fully support the statement of the IG and the Justice Department when he states as follows, "This integration is

critical to identifying illegally entering aliens on lookout lists or with criminal histories. But progress has been slow.”

Mr. Chairman, I raised my concerns with Secretary Ridge about fingerprint database integration in relation to his plan for deploying the US VISIT system. I cannot stress enough the importance of moving forward on this effort as expeditiously as possible. The lives of our citizens are at stake.

The FBI tells us that the Hutchinson proposal does not provide access for State and locals. This is a weakness that must be met. I thank you, Mr. Chairman.

#### ADDITIONAL COMMITTEE QUESTIONS

Senator COCHRAN. Thank you, Senator Byrd.

Thank you, all of our witnesses, for your cooperation with our subcommittee. As you know, written questions may be submitted to you for the record. And we ask you respond to them within a reasonable time.

[The following questions were not asked at the hearing, but were submitted to the Department for response subsequent to the hearing:]

#### QUESTIONS SUBMITTED BY SENATOR THAD COCHRAN

##### ARIZONA BORDER CONTROL INITIATIVE

*Question.* Under Secretary Hutchinson recently announced the Arizona Border Control Initiative. The announcement mentioned 260 Border Patrol agents, assigning 4 additional helicopters, \$1 million for new sensor technology, \$2 million to house additional apprehended illegal aliens, and other unspecified resources for detention. How are CBP and ICE paying for the Arizona Border Control Initiative?

*Answer.* CBP has identified funding within the fiscal year 2004 appropriations for the placement of the 260 agents, new sensors technology and the additional helicopters for the initiative. ICE is funding its efforts associated with the Arizona Border Control Initiative from within its fiscal year 2004 appropriations.

*Question.* Where are the funds coming from to pay for the permanent transfer of 200 border patrol agents?

*Answer.* CBP and the Border Patrol will request approval of the appropriations committees to use supplemental funds which remain unspent after the completion of the relocation of the 400 agents to the northern border in fiscal year 2004. CBP has met the mandate to triple the number of agents on the northern border. Approximately \$2.5 million is required to move the 200 agents into the Arizona border area.

*Question.* What impact will these actions have on initiatives funded by the fiscal year 2004 Appropriations Act and on base programs and staffing needs?

*Answer.* The Arizona Border Control Initiative is a high priority border enforcement operation to control illegal entry in these areas. The impact of ABC on lower priority base programs will be minimal and no changes in current border operations are anticipated. In addition, there will be little or no staffing impacts along the other border sectors due to the Arizona Border Control Initiative other than the relocation of the 200 agents.

*Question.* Which border patrol sectors are losing agents and helicopters to Tucson?

*Answer.* Four helicopters were transferred to Tucson from the San Diego Sector. The transfer of 200 agents is pending receipt of a selection list of qualified applicants. Applicants will in all likelihood come from across the entire United States.

*Question.* Will this initiative need to be pulled back in light of the funding problems within CBP and ICE which have initiated a hiring freeze and other actions to slow down or stop spending? If not, why?

*Answer.* Securing our Nation's borders is a top priority of CBP. The current emphasis of our enforcement strategy is gaining control of the illegal traffic entering through the State of Arizona. It is anticipated the ABC Initiative will continue as planned. This initiative will not be affected by the temporary suspension of hiring or by other steps being undertaken to address the budget issues to which you refer. This initiative is a high-priority for the Department, CBP, and ICE.

## OVERSEAS STAFFING

*Question.* CIS, CBP and ICE each have overseas responsibilities, some inherited from legacy agencies and some stemming from new initiatives. The President's budget requests increased resources for overseas staffing for CBP and ICE, while CIS has plans for a formal Refugee Corps overseas. How will your organizations co-operate overseas?

*Answer.* The Office of the Secretary is conducting a detailed review of the role of DHS overseas, including the management structure that best advances the full range of the international liaison, enforcement, inspection and services missions of the Department.

*Question.* Will each organization have separate overseas management structures? If not, how will these resources be managed?

*Answer.* The Office of the Secretary is conducting a detailed review of the role of DHS overseas, including the management structure that best advances the full range of the international liaison, enforcement, inspection and services missions of the Department.

## CITIZENSHIP AND IMMIGRATION SERVICES (CIS)

## BACKLOG REDUCTION PLAN

*Question.* What is the current size of the application backlog?

*Answer.* Information on the current backlog and USCIS plans to eliminate it will be provided to Congress in the coming months in a revised Backlog Elimination Plan.

*Question.* How does CIS define and determine the size of the backlog of applications?

*Answer.* In developing the revised Backlog Elimination Plan, USCIS is reviewing how it defines and thus quantifies the backlog. Information on the current backlog and USCIS plans to eliminate it will be provided to Congress in the coming months in a revised Backlog Elimination Plan.

*Question.* What impact is the reduction in fee receipts currently being experienced by CIS having on your ability to reduce the application processing backlog? *Answer.* While it is true that overall fee revenues are lower so far this fiscal year, this is due to a decrease in new applications received. Thus, even though fee revenue thus far this year is lower, it is important to note that workload is lower, too—thus enabling us to better focus on backlog cases.

*Question.* Last week the Department announced the settlement of the Catholic Social Services and Newman Legalization cases. What is the estimate of the potential number of applications that will be filed as a result of these settlements, and will those applications have any impact on CIS's ability to reduce the backlog?

*Answer.* There is no way of predicting exactly how many people will be able to apply during this new application period. However, many of the possibly impacted individuals were also eligible to apply for two previous programs set up by the legacy INS—the Questionnaire Program and the LIFE Legalization program.

It is expected that many applicants who may be eligible to apply for this new proposed settlement program did actually apply under the other programs and may have applications already being processed.

So, since the total number who applied under those two programs COMBINED is approximately 70,000—there is a good possibility that the number of applicants who come forward with this latest program will be less than 70,000.

## GUEST WORKER PROGRAM

*Question.* While it is difficult to answer this question so early in the process: how long do you anticipate it will take CIS to have a Guest Worker program up and running after legislation is passed and signed into law?

*Answer.* You are correct. It is difficult to answer this question. The complexity of the final legislation that Congress passes will, in turn, determine the complexity of implementing the program and any subsequent regulations and field guidance that will need to be written to support the plan. However, the key to processing temporary worker petitions quickly and efficiently will be simplicity in the design of the legislation.

*Question.* What impact will the addition of a Guest Worker Program have on CIS's ability to reduce the application backlog? *Answer.* We will meet the President's backlog reduction goals by 2006. As stated above, the key to processing temporary worker petitions quickly and efficiently is simplicity in the design. Based



upon the legislation that Congress passes, we will use fees to support applicant processing and documentation.

#### REFUGEE SERVICES

*Question.* Since fiscal year 2001, we have seen a dramatic decrease in the number of refugee admissions. In fiscal year 2001, the U.S. Government admitted over 69,000 refugees from around the world, while last fiscal year, only 28,000 refugees were admitted to the United States. The ceiling was 70,000 admissions for fiscal year 2003. It is very important that we ensure that the employees involved with Refugee screening are kept safe, and that we are diligently screening those refugees that are eligible for admission. What is CIS doing to ensure that all qualified refugees are being screened and admitted to the United States?

*Answer.* USCIS is committed to steadfast resettlement of refugees in need. The terrorist attacks of September 11, 2001 prompted significant and more time-consuming changes in U.S. Refugee Program (USRP) processing procedures. Increased attention is now being given to more carefully screening applicants and more closely scrutinizing overseas refugee processing sites to ensure the safety and security of our officers. These procedural changes have enhanced the U.S. Government's ability to prevent terrorists and other undesirable persons from using the USRP to gain entry into the United States. However, they have also slowed the pace of overseas processing and, in turn, contributed to the reduction in refugee admissions. To address this, the USCIS is working to improve and streamline refugee screening, security checks and interview methods. USCIS is also working with the other implementing partners to expand access to the USRP by identifying new groups eligible for resettlement consideration. Consequently, from a low point of 27,113 total admissions in fiscal year 2002, the Department of State projects that admissions in fiscal year 2004 will significantly surpass this figure.

Finally, USCIS has recently received resources through the revised fee schedule to establish a Refugee Corps in fiscal year 2004. This cadre of refugee-dedicated adjudicators will divide their time between Headquarters and the various overseas processing sites. This will result in a stronger and more effective overseas refugee-processing program without compromising the USRP's humanitarian objectives. A Refugee Corps will also help ensure more timely and satisfactory DHS responsiveness to USRP commitments and admissions goals.

*Question.* The submitted testimony for CIS mentioned plans for the formal establishment of a Refugee Corps. Please explain when you plan to have this accomplished, what the expected annual costs will be, how many people will be assigned to this Corps, and what goals and objectives the program will have.

*Answer.* The establishment of a dedicated refugee corps is funded through the recently announced fee adjustments. These fee adjustments took effect on April 30, 2004. Implementation of the refugee corps will take place shortly thereafter. This new structural and functional arrangement will greatly improve the quality of refugee adjudications and oversight, provide cost-effective immigration services, and significantly improve the Nation's ability to secure our borders without compromising humanitarian objectives. USCIS anticipates fee revenues will fund 109 positions at an annual cost of \$18.5 million.

*Question.* How will the Refugee Corps work with the ICE's Overseas Visa Security Units and U.S. Consulates?

*Answer.* The refugee-dedicated resources of the Refugee Corps, as supported and deployed by USCIS will work closely with Immigration and Customs Enforcement (ICE) overseas offices and U.S. Consulates on a variety of refugee application fraud and security matters. For example, the overseas ICE offices will assist deployed Refugee Corps adjudicators in developing and implementing various refugee fraud detection and deterrence methods. While at overseas refugee processing locations, the Refugee Corps will, in turn, refer emergent fraudulent refugee cases and cases having national security interest to ICE for advice and possible investigation, as appropriate. The Corps will also coordinate security check results such as Consular Lookout and Support System (CLASS) and Security Advisory Opinions (SAOs) with ICE offices and U.S. Consulates, as needed; and engage in mutual information-sharing regarding refugee applicant civil registry documents and other documentation to insure their validity and legality. Finally, the Refugee Corps will work with ICE overseas offices and other U.S. Embassy components to investigate and approve overseas refugee processing sites thereby helping ensure the safety, security and health of Refugee Corps adjudicators.

## BENEFIT FRAUD

*Question.* The President's Budget proposes to replace the funds provided to ICE for benefit fraud from the Examinations Fee Account, with appropriated dollars. What resources does CIS plan to devote to benefit fraud in fiscal year 2005?

*Answer.* USCIS is currently reviewing all of its business processes as a part of the revised backlog elimination plan. Therefore, the funding to support benefit fraud responsibilities in 2005 is under review.

*Question.* What will CIS use the \$25 million in Examinations Fee Account funds for that it will retain in fiscal year 2005?

*Answer.* USCIS is currently reviewing all of its business processes as a part of the revised backlog elimination plan. Therefore, the funding to support benefit fraud responsibilities in 2005 is under review.

*Question.* How many benefit fraud cases were investigated and prosecuted in each of fiscal years 1998–2003? How many defendants were involved in each of the cases in each year?

*Answer:* Statistical Response:

Fiscal year	Cases		Principals Involved	Aliens Involved	Defendants Prosecuted
	Opened	Completed			
2003 .....	2,522	2,031	932	1,885	213
2002 .....	1,932	1,919	258	383	994
2001 .....	2,613	2,662	655	927	185
2000 .....	3,140	2,965	532	3,009	189
1999 .....	5,315	3,648	706	1,705	252
1998 .....	4,311	3,802	639	944	283

The table above reflects the best available benefit fraud statistics historically collected by the former INS. Some of the statistics reflecting closed cases relate to cases opened in a previous year.

*Question.* Of the applications that you receive annually, what is the total estimated size of the fraud problem, by type of fraud?

*Answer.* GAO's January 2002 report on immigration benefit fraud States that, "Although the extent of the benefit fraud problem is not known, internal and external reports indicate that the problem is pervasive and significant." There is no current estimate of the fraud problem.

## CITIZENSHIP

*Question.* Please give the Committee a fuller understanding of why today there is not uniformity across the country in the administration of the current citizenship test.

*Answer.* The lack of uniformity actually dates back to 1790, when the first Congress entrusted naturalization to the courts and let them prescribe their own rules. From 1926–1990, the courts and INS shared responsibility for naturalization processing. In 1936, INS directed examiners to use uniform procedures and to determine applicants' character and attitude towards the United States rather than testing ability to memorize facts and phrases. The Immigration Act of 1990 gave INS full responsibility for naturalization adjudication.

In 2000, INS issued a policy memorandum to its field offices to standardize certain aspects of the testing process, such as which sources officers should use when selecting test questions, the length of the test, and passing scores. In 2001, INS awarded a contract to a testing development company to assist it in the overall redesign of the testing process. This project includes defining appropriate assessment content and standards for the speaking, reading, writing, and U.S. history and government tests; and developing a revised test process, including test specifications/item content, item formats, equivalent forms, appropriate delivery systems, scoring rules, and administration procedures. It's important to not rush standardization at the expense of creating a reliable, valid and fair test.

We are moving forward on all of these related goals. We completed a pilot test of revised English test items (reading, writing and speaking) in 2003. This year, we plan to finalize revised U.S. history and government content; conduct studies including test format, and test administration mode; and begin a pilot test of the complete revised English, U.S. history and government test. We also have asked the National Academies of Science to provide us with advice concerning the reliability, validity and fairness of the proposed changes to the test. These steps are all vital to ensuring that our revised test will meet these requirements.

*Question.* Please provide a more detailed explanation of what the Office of Citizenship is working on.

*Answer.* Established by the Homeland Security Act of 2002, the Office of Citizenship is responsible for promoting public awareness of the rights and responsibilities of citizenship. Specifically, the mandate of this office is to promote civic integration of immigrants through training and development of educational materials.

The Office of Citizenship is targeting immigrants at two critical points on their journey toward citizenship: upon arrival in the United States and as they begin the formal naturalization process. The office is in the process of developing a "New Immigrant Orientation Guide" which will be presented to the approximately one million immigrants welcomed to permanent residence every year. In addition to the guide, and in close coordination with community and faith-based based organizations, the office will also host new immigrant orientation sessions in communities across the country.

In the citizenship preparation arena, the office will develop new educational materials that include study and teacher guides that promote a deeper understanding of American history and civics. The American history and civics content will be closely coordinated with the Department of Education and the "We the People" initiative of the National Endowment for the Humanities.

Our office is currently conducting focus groups in key cities across the country in order to proactively identify the strengths and gaps associated with their immigrant integration and citizenship preparation initiatives. Finally, we plan to publish a report of our findings in September when we host our first national civic integration conference on the theme "Celebrate Citizenship, Celebrate America."

*Question.* How many people do you plan to have on the staff of the Office of Citizenship? Will they all be located in DC or placed around the country?

*Answer.* The Office of Citizenship is currently staffed by the Chief of the Office, two Deputy Chiefs responsible for Program Development and Outreach; eight senior Policy Analysts and Outreach Specialists working in its DC Headquarters; and 18 Community Liaison Officers in the following regional and field offices: Arlington, Atlanta, Burlington, Chicago, Dallas, Denver, Detroit, Houston, Los Angeles, Laguna Niguel, Miami, New Orleans, New York, Phoenix, Portland, San Antonio, San Diego and San Francisco.

*Question.* Will the Office of Citizenship work with organizations outside of the Department to carry out its mission?

*Answer.* In order to fully realize its mandate, the Office of Citizenship will work in partnership with Federal, State and local agencies, community and faith-based groups and private organizations that share an interest in civic engagement and involvement. Community Liaison Officers in regional and field offices are primarily responsible for establishing this important outreach portfolio and have conducted hundreds of community meetings and forums in an effort to build robust coalitions and long-term commitments around civic integration initiatives. We are currently researching statutory and legislative authorities to enhance our ability to partner with the private sector.

#### ON-LINE FILING OF APPLICATIONS

*Question.* When is the next expansion of the on-line filing of benefit applications planned?

*Answer.* The next group of forms that will be automated for on-line filing is scheduled to complete testing on April 30, 2004 and is planned to be available to the public during the first week of May 2004.

*Question.* Which applications do you plan to add next?

*Answer.* The group of forms that is planned to be available to the public by the first week of May 2004 are:

- Form I-129, Petition for a Nonimmigrant Worker
- Form I-131, Application for Travel Document
- Form I-140, Immigrant Petition for Alien Worker
- Form I-539, Application to Extend/Change Nonimmigrant Status
- Form I-821, Application for Temporary Protected Status
- Form I-907, Request for Premium Processing

*Question.* What impact has on-line filing of applications had on the processing time of applications?

*Answer.* Because receiving the data comprises only a small part of the adjudicative process and e-filing is still in its infancy at USCIS, e-filing has not yet resulted in significant processing time savings. Results will improve as e-filing opportunities are expanded, processes are changed to maximize the benefits of e-filing, and USCIS develops an IT infrastructure capable of moving complete files electronically. At

present, e-filing is a customer service initiative with potential for significant efficiency gains.

*Question.* Has on-line filing helped you to reduce the backlog of applications?

*Answer.* As indicated above, e-filing, at this time, is primarily a customer service initiative that provides our applicants with an alternative to filing by mail or filing in person. It allows customers to pay their fee on-line via credit card or transfer of funds; and provides the applicant with instant evidence of their filing. Electronic filing does not decrease the amount of effort or time necessary to review an application or render a decision. In the future, e-filing will be both a customer service program, as well as an efficiency program when USCIS deploys an IT infrastructure capable of moving complete files electronically.

#### RELATIONSHIP WITH IMMIGRATION OMBUDSMAN

*Question.* In July of 2003, Secretary Tom Ridge appointed Prakash I. Khatri to serve as the first Citizenship and Immigration Services Ombudsman for the Department of Homeland Security. What is the working relationship between CIS and the Ombudsman's office?

*Answer.* The Director of USCIS meets periodically in common cause with the Ombudsman to discuss issues, his recommendations, and their feasibility. The Director established an Office of Customer Management Relations (OCRM) led by a career senior executive who reports directly to the Director, to provide counsel, access to USCIS operations, facilitate the sharing of information, and coordinate responses to issues raised by the Ombudsman's Office.

In addition, numerous field visits have been arranged for the Ombudsman in gaining knowledge of operational challenges and in collecting ideas from field staff. A collegial relationship is ongoing between the two Offices.

#### CUSTOMS AND BORDER PROTECTION (CBP)

##### CONTAINER SECURITY

*Question.* What achievements has the Department made in increasing cargo security? When will the new three-pronged strategy be completely implemented?

*Answer.* The Department has made significant strides in improving cargo security through programs such as the Container Security Initiative (CSI), the Customs-Trade Partnership Against Terrorism (C-TPAT), Free and Secure Trade (FAST), the National Targeting Center, the deployment of non-intrusive inspection technology and radiological detection cargo screening technology at our ports of entry. In addition, implementation of the 24-hour rule for the transmission of cargo manifests has all contributed to improved security in the cargo environment.

Implementation of the three pronged strategy: pushing our borders outward; advanced targeting and analysis of cargo and passengers before arrival at our borders; and intensive inspection of cargo and passengers at our borders is a process. Implementation of this process continues through the fiscal year 2005 President's initiatives for the Container Security Initiative, the Customs-Trade Partnership Against Terrorism, Systems for Targeting, and Radiation and Nuclear Screening Technology. Initiatives like these can be expected in the future in accord with the level of threat.

*Question.* The budget requests over \$105 million in enhancements to improve the ability of inspectors to target, inspect, and screen passengers and cargo at land, air, and sea ports. Having radiation monitors and increasing our ability to use computers to target and screen cargo and passengers is critical. Are there a sufficient number of inspectors on the front lines to handle physical inspections of cargo and passengers?

*Answer.* With the additional resources provided for in the fiscal year 2002 Emergency Supplemental, the fiscal year 2003 appropriation and Wartime Supplemental, and the fiscal year 2004 appropriation, as well as the joining of the three agencies to form CBP, we believe we have adequate staffing to handle physical inspections of current levels of cargo and passengers.

*Question.* Are there any plans to extend a Container Security Initiative-like project to bulk and break-bulk shipments?

*Answer.* At this time, CBP is not planning to extend a CSI-like project to prescreen bulk and break-bulk shipments. CBP will continue to collaborate with the U.S. Coast Guard on vessels of interest and certain dangerous cargoes at both a national and field level, and conduct joint boardings when warranted.

#### CUSTOMS-TRADE PARTNERSHIP AGAINST TERRORISM

*Question.* The budget requests an additional \$15 million to expand the Customs-Trade Partnership Against Terrorism (C-TPAT). These new resources will allow

Customs and Border Protection to increase the validation process within C-TPAT. According to the submitted testimony, 221 validations have been completed on 2,926 certified partners. How many more validations will CBP be able to complete each year with the new resources?

Answer. To date, over 700 validations have been initiated with over 240 completed. Our goal for the current calendar year is to have completed a total of 400 validations. C-TPAT will continue to increase the number of validations performed for calendar year 2005. The increase will be guided by several factors including but not limited to membership levels, number of supply chain specialists on board, and threat level.

*Question.* How often does CBP plan to validate each of the participants in the program?

Answer. A C-TPAT participant is selected for validation based on risk management principles. Validations may be initiated based on import volume, security related anomalies, strategic threat posed by geographic regions, participation in expedited release programs, a relative sampling of industry sectors (e.g. carriers, brokers, forwarders, importers), and/or other risk related information. Alternatively, a validation may be performed as a matter of routine program oversight.

*Question.* None of the 188 initiated validations have been on any of the 45 certified foreign manufacturers enrolled. When does CBP plan to begin reviewing foreign manufacturers?

Answer. Foreign manufacturers will be included in the next group of C-TPAT validations to be initiated in calendar year 2004.

*Question.* What performance measures have been developed to gauge the success of the C-TPAT program?

Answer. Internal measures include program marketing and acceptance, which is measured by the number of C-TPAT partners enrolled and certified by CBP. The impact of enrollment is measured by identifying the percentage of trade controlled by those C-TPAT companies. Another internal measure is examination risk management, which involves quantifying and measuring the impact C-TPAT has on cargo inspections performed on "known risk" C-TPAT partners, compared to shipments where the risk is unknown or targeted as high.

External measures include the C-TPAT validation process, which is used to verify the participant's supply chain security processes. C-TPAT Supply Chain Specialists identify strengths and weaknesses found during the validation and recommend action items in the validation report. The results of all validations are captured to measure the overall performance of validated companies.

#### UNMANNED AERIAL VEHICLES

*Question.* The President's budget includes a request for \$10 million to develop, procure, deploy, and operate a system of unmanned aerial vehicles to support the Border Patrol and other components of Customs and Border Protection. According to the information we have been given regarding the Arizona Border Control Initiative, this project will begin in June with funding from the Science and Technology Directorate. Are any of CBP's direct funds going to support this effort this fiscal year?

Answer. No. All funding supplied for this effort has been provided by the DHS Office of Science and Technology.

*Question.* Both the Coast Guard and the Air and Marine program within ICE have tested the concept of using unmanned aerial vehicles in their operations. Will CBP be working cooperatively with these organizations during fiscal year 2005 on this test?

Answer. BTS and the Science and Technology Directorate co-chair the DHS UAV Working Group which meets regularly and consists of BTS component and U.S. Coast Guard managers responsible for aviation assets. The working group provides a forum for collaboration and with the DHS UAV Executive Steering Committee it will ensure that the needs of CBP, ICE, TSA and the U.S. Coast Guard are addressed and deployments and concepts of operations are coordinated within the DHS.

*Question.* What are the long-range plans for the use of UAVs along the land border? Will this be a joint program with ICE's Air and Marine Office?

Answer. DHS is exploring new technology to meet aerial border security mission requirements. UAVs hold promise in some applications. This mission will be supported through a variety of systems. Sensors such as TARS, UAVs, rotary and fixed wing aircraft, and ground-based equipment and personnel to operate and maintain these systems must be coordinated by DHS and Department of Defense components,

and aligned against the highest critical vulnerabilities and threats. ICE AMO is an integral part of the team that is developing and fielding this capability.

#### SENSOR AND SURVEILLANCE TECHNOLOGY

*Question.* Staff from CBP have informed us that they are currently working on a complete review of the sensor and surveillance technology currently deployed between the land ports of entry and are developing the project plan for the \$64 million requested for this effort for fiscal year 2005. When will the plan for the fiscal year 2005 resources for Sensor and Surveillance Technology be made available to the Committee?

*Answer.* The appropriations staff will receive a comprehensive briefing on our plans for this system and its operational goals that reflect the new anti-terrorism mission in the near future.

*Question.* When can we expect to have all of the Northern and Southern border comprehensively covered by these systems? In fiscal year 2006, or beyond that?

*Answer.* The appropriations staff will receive a comprehensive briefing on our plans for this system and its operational goals that reflect the new anti-terrorism mission in the near future.

*Question.* What is the total cost of finishing the installation of all sensor technology?

*Answer.* At this time we are formulating a new strategic plan based on the new anti-terrorism priority. More comprehensive information on future program direction and requirements will be provided in the near future.

*Question.* The request for enhanced surveillance technology in this budget does not include any resources for additional law enforcement communications assistants. If the number of remote video surveillance systems is increasing, won't there be a need for more personnel to monitor the cameras?

*Answer.* The ISIS program does not anticipate a need for additional law enforcement communications assistants; we expect that the successful integration of proven technologies will provide this real-time intelligence directly to the agents in the field. This will reduce the need for law enforcement communications assistants to process this information.

#### AUTOMATED COMMERCIAL ENVIRONMENT

*Question.* CBP has been working on modernizing the information technology systems that it uses for some time. The most significant project is the Automated Commercial Environment, known as ACE. CBP has been working closely to resolve problems with the prime integrator on ACE for the last year. Is the project back on track?

Will the project be completed on time, or does the overall project timeline need to be revised and extended?

Is the project maintaining its projected budget? Is the project continuing to experience cost overruns?

*Answer.* CBP continues to aggressively work to put ACE capabilities to work on America's borders. The first deployment of ACE, completed in the winter 2003, focused on the technical infrastructure. It provided the foundation for a secure, reliable, high-speed access to critical CBP information. The second release of ACE, deployed in summer 2003, included an Enterprise Web portal that provides CBP Account Managers and selected importers controlled access to information such as the account's trade activity, and facilitates collaboration and communication among the various groups.

Subsequent ACE capabilities will be fielded between June 2004 and the end of ACE development, which includes; Periodic Payment (Release 3), e-Manifest Trucks (Release 4), ACE Selectivity Releases, End-to-End e-Processing (Release 6), and ACE Wrap-Up (Release 7).

During the past year, U.S. Customs and Border Protection has worked very closely with the e-Customs Partnership (eCP) to address performance issues. This includes extensive analysis of the program to incorporate process, planning, and organizational enhancements to help contain costs and minimize schedule delays. The CBP efforts have also included frequent meetings and dialogue with senior executives from IBM, the leading eCP partner, to reinforce CBP high standards and expectations. The response from IBM leadership has been positive, and they have clearly indicated their commitment to the Automated Commercial Environment (ACE) project. Meetings with IBM executives continue monthly.

Based on intensified CBP oversight, the current estimated cost variance for ACE is within 10 percent of the program baseline. Based on benchmarks for similarly complex programs, the program variances are within expected boundaries. The CBP

continues to conduct cost containment activities and have made great strides in improving our ability to better forecast variances through Earned Value Management. We have incorporated lessons learned into ACE development, including improving the requirements definition process, and conducting more comprehensive system development gate reviews based on refined criteria.

Though CBP is developing schedule scenarios that result in ACE completion dates ranging from 2009 to 2012, no formal change has been made to the project schedule. A revised project schedule will be published in the June 2004 update of the ACE Program Plan and in the fiscal year 2006 OMB Exhibit 300 for ACE after the results of the ongoing Global Business Blueprint (defining future CBP business processes and the technology requirements) are known.

#### AGRICULTURAL INSPECTIONS

*Question.* How has CBP's "Officer for the Future" Plan been developed to include additional training for the Agriculture Quarantine Inspection function?

Answer. Consistent with the Homeland Security Act and subsequent Memorandum of Agreement between USDA and DHS, it was agreed by both DHS and USDA that USDA would supervise and provide educational support and systems to ensure that DHS employees receive the training necessary to carry out the USDA functions transferred to DHS. As a result, USDA has linked with DHS in defining training module content specific to the agriculture quarantine inspection mission. More specifically:

- The new hire CBP Officer will receive 12 hours of instruction in a course titled Threat to Agriculture covering agriculture fundamentals during the basic academy. This course is taught by USDA instructors and covers: the importance of U.S. agriculture; the impact of introduced pests; the agriculture mission; statutory authorities; agricultural bioterrorism; safeguarding; and agriculture secondary inspection referrals. This training is mandatory.
- Current CBP Inspectors will receive a CD-ROM version of the same course, titled Agriculture Fundamentals, covering the same material. This training is mandatory for CBP Inspectors and when issued to the field, will be completed within 120 days.
- A second component of mandatory agriculture quarantine inspection training, titled Agriculture Procedures, will be developed over the next few months by USDA and DHS. This mandatory course will be taken by both the new hire CBP Officer and current CBP Inspectors. USDA will direct course content and course delivery will be conducted by DHS.

*Question.* What specific actions are being taken to train Customs and Border Protection officers to detect potential illegal contraband that may pose a risk of introducing a foreign animal disease into the United States? Do you believe that this training is sufficient to inform officers about the threats and potential damage, economic and otherwise, to a huge sector of the U.S. economy that foreign animal diseases pose?

Answer. All new hire CBP Officers are required to receive the USDA-instructed course, Threats to Agriculture, while at the CBP Academy. Current CBP Inspectors are required to take the same course, in a CD-ROM format. The course was designed by USDA and includes an overview of foreign animal diseases, including vectors, fomites, and impacts of the diseases. The next phase of training, yet to be developed by USDA and DHS, is the Agriculture Procedures course, which will provide more specific training in the Agriculture Quarantine Inspection arena, including additional training on foreign animal diseases.

*Question.* How many CBP Officers have completed the 12 to 16 hours of Agriculture Quarantine Inspection training required to be a fully certified CBP officer?

Answer. The number of hours of required (mandatory) training for the CBP Officers is still not determined as the second component of training, Agriculture Procedures, is not yet developed. The new hire CBP Officers receive a total of 12 hours of training conducted by USDA at the CBP Academy during their basic training. Current CBP Inspectors will receive the same course as the new hire, but it will be delivered in an electronic, CD-ROM format. All CBP Inspectors will be required to take this course within 120 days of field delivery. The intent of this training is to have the CBP non-agriculture workforce begin their agriculture curricula from the same starting point. From October 2003 through April 13, 2004, a total of 823 CBP Officers have completed the 12-hour portion at the CBP Academy.

*Question.* What is the status of the former U.S. Department of Agriculture Inspectors that were transferred to the Department of Homeland Security in the middle of last year?

Answer. The former USDA Agriculture Inspectors have been placed into a newly defined position description, the CBP Agriculture Specialist. This position is in the 401 series with a full performance level at the GS-11 level. The full performance level for the PPQ Officer was a GS-9. The new duties incorporated in that position description include:

- serving as an expert and technical consultant in the areas of inspection, intelligence, analysis, examination, and law enforcement activities related to the importation of agricultural/commercial commodities and conveyances;
- applying a wide range of laws and regulations determining the admissibility of agriculture commodities while preventing the introduction of harmful pests, diseases, and potential agro-terrorism into the United States;
- participating in special enforcement, targeting, or analysis teams charged with collecting and analyzing information and identifying high-risk targets;
- conducting visual and physical inspections of cargo, conveyances, or passenger baggage;
- planning, conducting, and supervising remedial actions;
- participating in pre-arrival risk analysis; and
- serving as a training officer.

#### IMMIGRATION AND CUSTOMS ENFORCEMENT (ICE)

##### WORKSITE ENFORCEMENT

*Question.* Please provide a chart with the total resources, FTE and dollars, devoted to worksite enforcement for each of fiscal years 1998–2003.

Answer. The worksite enforcement budget has always been part of the base budget and has not been separately tracked. The FTE are provided in the chart below.

Fiscal year	1999	2000	2001	2002	2003
FTE Source: PAS .....	278	202	134	152	105

##### VISA SECURITY UNIT

*Question.* The President's budget requests an increase of \$10 million to support the Visa Security Unit. According to the budget, this unit was established in fiscal year 2003, but is receiving its current year funding from outside of ICE. Where is the funding for the Visa Security Unit coming from for fiscal year 2004?

Answer. The Visa Security Program for fiscal year 2004 was an unfunded mandate and ICE resources were used for the current TDY deployment to Saudi Arabia of Visa Security Officers. The BTS Directorate will be seeking reprogramming authority to address funding requirements for sustainment of the Saudi deployment and expansion to four other countries in fiscal year 2004. Financial support for this Presidential priority will be from ICE and CBP operational funding.

*Question.* How many personnel have been hired for this program to date?

Answer. No staff have been hired for this program to date. The program has been operating with detailees at headquarters and in Saudi Arabia.

*Question.* What is the expected staffing level for end of fiscal year 2004?

Answer. The Saudi deployment would be 6 officers and ICE Headquarters would have 10 at the end of fiscal year 2004.

*Question.* How many of the personnel in this program will be stationed overseas?

Answer. As of April 30, 2004, there are 4 Visa Security Officers in Saudi Arabia. New rotations are planned for the departing officers.

*Question.* What performance measures have been developed to gauge the success of this program?

Answer. One of the key issues in the development of the Visa Security Program is assuring that measures can be identified that properly attribute the added value of DHS in the visa process. Measures include the following: number of visa applications reviewed by DHS officers; number referred for investigation and further analysis; and numbers approved and denied in consultation with the Department of State.

##### REDIRECTING THE BASE—OFFICE OF INVESTIGATIONS

*Question.* The President's Budget proposes important changes to the funding of the Office of Investigations within ICE. The budget proposes to replace \$25 million in funding from the Examinations Fee Account that currently funds benefit fraud with appropriated dollars. The budget also proposes moving the responsibility for the Institutional Removal Program from the Office of Investigations to the Deten-



tion and Removals Program, but leaves the base funding within the Office of Investigations. Why should appropriated dollars replace mandatory dollars for benefit fraud?

*Answer.* The appropriated funds are requested for benefit fraud investigations. The shift will allow the examinations fee to be used solely for immigration services and provide appropriated resources for enforcement activities. With respect to the institutional removal program, the demands for Detention and Removal have increased substantially and been met by investigators, which has had a negative impact on the investigation program. The request provides less expensive and more appropriate personnel resources to the Detention and Removal Program, while at the same time preserving the original intent and capacity requirements for the Office of Investigations.

*Question.* Will this shift increase the total resources devoted to benefit fraud?

*Answer.* The approval of \$25 million in appropriated funds would not increase the resources devoted to benefits fraud but simply replace funds previously provided from the Examinations Fee. These funds provide the resources for approximately 140 existing ICE positions and operational expenses. These resources enable ICE to maintain its investigations of benefit fraud organizations and egregious fraud violators.

*Question.* Under the budget proposal, the base funding for the Institutional Removal Program remains within the Office of Investigations. What investigative priorities will these resources be redirected to?

*Answer.* The fiscal year 2005 request is a result of a planned realignment of the Institutional Removal Program (IRP) from OI to DRO. Managing and executing the program in one office will prove more effective and productive than in its current bifurcated state. Special Agents within OI that will be freed up from IRP work they currently perform will be able to dedicate much-needed investigative hours to public safety and national security cases. There are renewed demands for investigation of non-incarcerated criminal aliens and violent gang enforcement.

#### LAW ENFORCEMENT SUPPORT CENTER

*Question.* What are the base resources, FTE and dollars, for the Law Enforcement Support Center (LESC) for fiscal year 2004? What are the requested resources for the LESC for fiscal year 2005?

*Answer.* General expense funding for fiscal year 2004 is budgeted at \$1.9 million, which includes \$869,000 from the War Supplemental. In fiscal year 2004, there are 287 positions authorized, of which 9 are currently vacant. No increases are anticipated for fiscal year 2005.

*Question.* It is the Committee's understanding that there are approximately \$5 million in facility improvements that are needed at the LESC. Is this accurate? If, yes please provide the Committee with an itemized list for the \$5 million.

*Answer.* Due to increased law enforcement inquiry workload and the projected growth in the NCIC program, the LESC submitted an out-of-cycle space request for 80,309 additional sq. ft of expanded facility space at the LESC's present location in January 2002. That request was subsequently approved and the one-time costs of \$3.7 million associated with expansion were approved and transferred to GSA.

Since the submission of the space request in January 2002, the LESC's core workload has grown from 240,000 queries to a projected 744,000 queries per year in 2004. Additionally since establishment of DHS and ICE, the LESC has taken on new, critical law enforcement tasks. This growth combined with new tasks exceeded the projected growth that was the basis of the original space request. Additionally, once the 80,000-sq. ft. expansion is completed, the current LESC site would not allow for any additional facility expansion. The constraints of the current site would eventually drive the LESC into a multi-site operation to continue to expand workload and mission. For these and other reasons, including physical security concerns, it was determined not to proceed with the 80,000 sq. ft. addition, but instead pursue a larger, more secure site that would not limit future expansion or the LESC mission and ability to perform its important law enforcement work.

The \$3.7 million transferred to GSA to fund the one-time costs associated with the addition is on account with GSA for 5 years and can be used at another LESC site or facility. That amount is in addition to approximately \$1.5 million that was previously on account with GSA for internal reconfigurations at the current site for a total of approximately \$5.2 million that is available for LESC facility expansion and improvement.

The LESC has completed necessary improvements at the current site. Planning for a larger facility that will meet all of the current and future physical infrastructure needs of the LESC's expanding workload and mission is ongoing.

## DETENTION AND REMOVALS

*Question.* The budget requests \$5 million for additional detention bedspace. What percentage increase in additional bedspace will this provide?

Answer. Approximately 150 beds or less than 1 percent of current bed space.

*Question.* Given the increased level of resources that the budget proposes to devote to enforcement, as well as the increased vigilance that US VISIT allows at ports of entry, are enough resources being put towards detention?

Answer. DRO is currently funded for approximately 20,000 beds.

*Question.* Will ICE be working with the U.S. Department of Justice, Detention Trustee, where appropriate, in the management of the detention program? Has a Memorandum of Understanding been signed with the Department of Justice?

Answer. Yes, DRO is working with DOJ, Office of the Federal Detention Trustee (OFDT) in the management of the detention program. A memorandum of understanding was signed with the Justice Department on 1/28/2004.

*Question.* How is the relationship with the Department of Justice structured? Who will be responsible for procurement and contracting?

Answer. ICE and the OFDT signed an Inter-Agency Agreement on 1/28/2004. The agreement establishes OFDT as a procurement service provider to ICE for non-Federal detention requirements. Since establishment of the agreement, ICE and OFDT have made substantial progress toward fully implementing the service provider relationship. ICE has identified 5 non-Federal secure detention requirements for procurement action by OFDT and both entities are cooperating to establish a schedule for the transition of ICE inter-governmental service agreements and administration of the non-Federal detention inspection program to OFDT.

## FUGITIVE OPERATIONS

*Question.* The President's budget requests an increase of \$50 million to create an additional 30 fugitive operations teams. It is estimated that each of these teams will be able to apprehend and remove up to 500 fugitive aliens a year. Of the approximately 400,000 absconders, how are you prioritizing which fugitives you pursue first?

Answer. National Security and criminal cases are the highest priority, then cases that have a higher probability of removal, and other non-criminal aliens. There are several initiatives being implemented to help identify and locate our absconder population. ICE has implemented an interface between ICE and CBP systems that identifies fugitives when they return to the United States. Inspectors will now be alerted when an "absconder" is identified at a port of entry.

DRO entered into an agreement with Citizenship and Immigration Services whereby DRO is notified when an alien applies for benefits and is identified as an absconder. In these cases, CIS provides us with the most current information such as home address.

*Question.* Based on the information provided in the budget, once additional fugitive operations teams are fully deployed, ICE will be able to locate and remove 23,000 aliens a year. Your testimony states that the national Fugitive Operations program strategy calls for eliminating the backlog of absconders in 6 years. Removal of 23,000 aliens a year for 6 years does not quite add up to 400,000. How will ICE accomplish this goal?

Answer. Our strategic plan "Endgame" calls for the elimination of the fugitive backlog within 10 years based on significant increases in the fugitive program. This will require 300 teams over that time period.

We are also implementing new initiatives targeting data integrity. Through data dumps and systems analysis we are removing cases that are incorrectly identified as fugitives (Self Deport, Benefits granted, etc.)

## ALTERNATIVES TO DETENTION

*Question.* What are the results so far of the Alternatives to Detention program?

Answer. DRO began utilizing alternatives to detention, or community based programs, in August 2002, with the opening of a community based residential program for 250 non-criminal females that were previously held in a local jail in South Florida.

DRO began testing the applicability of electronic monitoring devices (EMDs) in May 2003 in six Field Offices (Anchorage, Miami, Detroit, Portland, Seattle, & Chicago). Traditional EMDs have been utilized with just over 100 illegal aliens as an alternative to secure detention. Supervision of these cases was initially conducted as a collateral duty and was found to be very staff intensive. Efforts are underway to integrate the traditional EMD house arrest program into the Intensive Super-

vision Appearance Program (see below). Telephonic or administrative reporting technology has been utilized as an automated reporting device for just over 500 aliens that are living in the community on Orders of Supervision. This technology has the potential to assist DRO in effective case management. A summary report on the use of these two technologies will be completed after 1 year of the pilot. Additionally, DRO and the Federal Protective Service (FPS) are exploring the possibility of utilizing FPS for monitoring of the EMD program technology, currently being provided through a contract with an EMD provider.

Pursuant to the *Zadvydas v. Davis* Supreme Court decision, there are presently a significant number of Post Order Custody Review (POCR) cases that are eligible for release, but are in need of rehabilitation programs for substance abuse, mental health, anger management, sex offender, etc. In September 2003, as an Alternative to Detention initiative, a Condition of Release Program for POCR cases was developed through our existing reimbursement agreement with the Division of Immigration Health Services (DIHS). Through this Program, DIHS will review POCR cases, and identify rehabilitative programs. As of March 2004, 53 POCR cases have been forwarded to DIHS for review and program placement.

DRO recently announced the contract award selection of Behavioral Interventions, Inc. (BI) of Boulder Colorado for the provision of community-based supervision of 200 aliens in each of the following eight Field Offices: Baltimore, Philadelphia, Miami, St. Paul, Denver, Kansas City, San Francisco, and Portland. The program is designed to supervise aliens that can be released into the community to ensure their attendance at Immigration Court hearings and compliance with Court orders.

The contractor will provide Intensive Supervision Appearance Programs (ISAP) services for 200 aliens in the initial eight sites during fiscal year 2005. ICE plans to expand the initial capacity to 400, and to add one additional site with a capacity of 200.

*Question.* What is necessary, besides just more funding, to see a larger scale implementation of this alternatives program?

*Answer.* While community based sanctions has been utilized for over 30 years by the criminal justice system with proven results, there has been very little application or research on these types of services for illegal aliens. Staff, program research and development resources are necessary to determine if these pilot programs would be effective with illegal aliens and to develop replication models for expansion.

#### FEDERAL AIR MARSHALS

*Question.* The budget request for the Federal Air Marshal Program (FAMS) does not include any funds to provide pay raises, within-grade increases, or any other adjustments to base in fiscal year 2005. What resources are necessary to provide the FAMS with the same adjustments to base as the other components within ICE as well as the Department of Homeland Security? Please provide an itemized list of the necessary adjustments to base for the FAMS.

*Answer.* The FAMS and DHS are working to determine how best to manage FAMS' resources. FAMS is developing performance-based measures that will determine the optimal number of Federal air marshals and resources to provide the necessary aviation security.

*Question.* What impact will the fiscal year 2005 President's budget request have on staffing within FAMS as compared to fiscal year 2004?

*Answer.* The FAMS will adjust its staffing as necessary to meet its highest priority missions with available resources. In doing so, the FAMS will consider other enhancements within the aviation security system.

*Question.* Previously, there has been a problem with retention of FAMS. What is the current attrition rate as compared to that in previous years?

*Answer.* Since the start of the fiscal year 2004, Federal Air Marshal attrition has been roughly 9.4 employees per pay period. This attrition rate is down significantly from the fiscal year 2003 level, when the Service's attrition averaged approximately 33 per month. In turn, the fiscal year 2003 rate was well below the roughly 58 Federal Air Marshals lost per month during the last quarter of fiscal year 2002. Although the FAMS' attrition rate remains in flux, the reduced number of employees leaving the program is attributed to the progress made towards completing the FAMS' stand up, stabilizing the workforce, implementing quality of work life initiatives, and otherwise working to improve procedures and management systems to encourage employee retention.

#### AIR AND MARINE OPERATIONS—NORTHERN BORDER AIRWING

*Question.* The Air and Marine Operations program has been stretched very thin for the last 2 years. Long-term repetitive details of personnel and assets are being

used to protect the Northern Border and the National Capital Region. The appropriation for fiscal year 2004 includes resources for the establishment of a permanent Northern Border Airwing. What is the status of establishing the permanent Northern Border airwing funded for fiscal year 2004?

Answer. The fiscal year 2003 War Supplemental provided \$20.5 million to launch the Bellingham Air Branch, the first of five Northern Border Branches. Planned allocation is as follows: \$2.5 million for personnel transfers, \$12.6 million for medium lift helicopter acquisition and \$6.6 million for multi-role enforcement aircraft. Staffing will be provided through a combination of new hires and the transfer of experienced personnel from other AMO field locations.

In fiscal year 2004, AMO received \$35.2 million in Operations and Maintenance (O&M) funding to launch AMO's Northern Border Branch in Plattsburgh, NY. Planned allocation is as follows: \$10 million for medium lift helicopter acquisition and \$6.6 million for multi-role enforcement aircraft, \$9.7 million for facility and \$2.7 million for aircraft spares. An additional \$5.4 million was appropriated in Salaries and Expenses funding to cover the cost of 36 personnel.

Plattsburgh and Bellingham each will be equipped with three aircraft, including one Multi-Role Enforcement Aircraft (Pilatus PC-12 fixed-wing), one Medium Lift Helicopter and one Light Enforcement Helicopter.

The President's fiscal year 2005 budget includes \$35.2 million to launch the third Northern Border Branch.

—The funds from these two appropriations were combined to purchase one medium lift helicopter.

*Question.* How has the recently announced hiring freeze affected the Northern Border airwing?

Answer. The recently announced hiring freeze did not affect our build-up of the Northern Border air wing.

*Question.* When will the aircraft and other equipment be procured?

Answer. The procurement process has already begun for the aircraft and other equipment. The four AS-350 A-Star helicopters are scheduled to be delivered during the June-December 2004 timeframe. Taking into consideration the 120-day communication and sensor installation process, the first operational helicopter will be delivered in October 2004 with follow-on delivery of the remaining 3 helicopters at 1 every 60 days.

The first PC-12 (Multi-Role Enforcement Aircraft) is scheduled for delivery during May 2004. The second aircraft is scheduled for delivery October 2004. Both aircraft will be configured with the Wescam Integrated Situation Awareness Display System (ISADS) electro optic/infrared.

*Question.* Even with the establishment of this airwing, to what extent will ICE still have to rely on detailees to cover the Northern Border and the National Capital Region?

Answer. The Northern Border will have to rely on detailee augmentation during surge operations or designated heightened alert postures.

We are currently maintaining the NCR Branch primarily through the use of rotational detailee assignments. We are requiring aviation personnel to travel on a temporary duty status, as well as, the redeployment of aircraft from southern border locations to the Washington, D.C. area in order to provide on-going mission critical support. All costs for that operation have been covered using Air and Marine Operations fiscal year 2004 Operations and Maintenance funding.

#### LONG-RANGE RADAR

*Question.* What is the total amount that the Federal Aviation Administration (FAA) has in its fiscal year 2004 budget for operating the Long-Range radar system?

Answer. Questions regarding FAA's distinct budget line items should be addressed to the FAA.

*Question.* How much is being requested by other agencies for fiscal year 2005 for the Long-Range radar system?

Answer. The Long-Range Radar (LRR) funding, a new fiscal year 2005 line item to help fund the FAA radar system that feeds information to the AMOC, is a \$12.5 million increase to the AMO base, "other services" line item.

*Question.* Why are new resources being requested in the fiscal year 2005 budget to allow the Department to pay the FAA for this service, as opposed to a transfer from the FAA budget?

Answer. FAA has indicated recently that to continue to maintain and operate this system as mandated in past Federal legislation, it would need to start charging user agencies for the data.

## TETHERED AEROSTAT RADAR SYSTEM

*Question.* The information provided by the Tethered Aerostat Radar System (TARS), known as TARS, is a critical component in the Department's efforts to interdict illicit air traffickers. Do you believe that the Department of the Defense is providing sufficient support to the TARS program to enable the Air and Marine Program to effectively carry out its mission?

*Answer.* The TARS program has declined from 14 operational sites to 8 operational sites (Lajas, Puerto Rico, is due back on-line in May 2004). Questions regarding costs for operating these sites should be addressed to DOD, which maintains and operates the system. AMO is an end user of the data provided by these valuable national assets.

*Question.* Is the Department of Homeland Security working with the Department of Defense to ensure proper maintenance and upgrades of TARS?

*Answer.* AMO is currently working closely with all the agencies involved in the counter-narcotics and border security missions, including USIC, ONDCP, DOD, and DHS to communicate the requirements for the continued use of the TARS. Recent close coordination and meetings between the Department of Homeland Security and the Deputy Assistant of Defense for Counter Narcotics have resulted in frank and open discussions related to TARS. The dialogue is productive and ongoing at this time, and DHS' requirements have been acknowledged by DOD.

*Question.* Does ICE have the necessary expertise and personnel to take over the management and maintenance of the TARS program?

*Answer.* TARS is now under the purview of DOD and should be operated in line with DHS operational needs.

*Question.* What is the estimated funding needed for ICE to assume management of the TARS program?

*Answer.* TARS is now under the purview of DOD and should be operated in line with DHS operational needs.

---

 QUESTIONS SUBMITTED BY SENATOR ROBERT C. BYRD

## CITIZENSHIP AND IMMIGRATION SERVICES

## IMPACT OF THE PRESIDENT'S REFORM PLAN

*Question.* How many new petitions do you expect the President's Immigration Reform Plan to generate?

*Answer.* This information will be available once Congress has drafted the legislation and the specifics are known.

## MACHINE-READABLE PASSPORT DEADLINE

Background: The Enhanced Border Security and Visa Entry Reform Act of 2002, which President Bush signed into law on May 14, 2002, established October 26, 2004, as the deadline by which the 27 existing "visa waiver" countries must have machine readable visas in order for their citizens to enter the United States. Last week, Secretaries Ridge and Powell sent a letter to various Congressional leaders urging that the October 26, 2004 deadline be pushed back to December, 2006. The countries which would be affected by this law have had nearly 2 years to comply with this requirement. This is not something new which we just pulled out of thin air.

I understand that certain lobbying organizations, such as the Travel Industry Association of America, have praised this proposed delay in the deadline. However, I predicted this outcome when the Enhanced Border Security Act was on the Senate floor.

We know that terrorists have attempted to gain entry to the United States through the visa waiver program. The December 2001 "shoe bomber", Richard Reid, benefited from attempting to come to the United States from a "visa waiver" country. We know that tens of thousands of passports from visa waiver countries have been stolen in recent years and sold on the black market. We know that machine-readable passports can help to filter potential terrorists who try to enter the United States through the visa waiver program. I do not want to discourage legitimate tourists and other travelers from coming to visit our country, but border security must remain one of the Department's paramount priorities. The law was passed nearly 2 years ago. There has been ample time for the Administration to work with the visa waiver countries in meeting this deadline. The Administration's job was to get these countries to meet the requirements of the law.

*Question.* How is it in the interest of our domestic security to push back even further the deadline requiring machine-readable passports from visa waiver countries? What steps did the Administration take over the last 2 years to ensure that visa waiver countries would be able to meet the deadline?

*Answer:* The EBSVERA requires that beginning on October 26, 2004, Visa Waiver Program (VWP) countries must certify that they have a program in place to issue their nationals machine-readable passports that are tamper-resistant and incorporate biometric and document authentication identifiers that comply with International Civil Aviation Organization (ICAO) standards in order to continue to participate in the VWP. The law also requires that visitors coming to the United States under the VWP present machine-readable, tamper-resistant passports that incorporate biometric and document authentication identifiers, if the passport is issued on or after October 26, 2004.

While most, if not all, VWP countries will be able to certify that they have a program in place to issue biometric passports by the October deadline, very few, if any, VWP countries will actually be able to begin issuing biometric passports by that date. The issue is not lack of will or commitment to achieving the standard by these countries, but rather challenging scientific and technical issues. For the same challenging technical reasons, DHS is also not currently in a position to acquire and deploy equipment and software to biometrically compare and authenticate these documents. It is not in any country's interest, including our domestic security interest, to produce or accept biometric passports with questionable standards and an immature biometric technology.

DHS is encouraged by the progress that has been made by VWP countries to meet the emerging ICAO standards. We believe that by the fall of 2006, the technology required to implement successfully a security system based on the ICAO standards will be much more settled and allow DHS to derive the security benefits envisioned when the original EBSVERA was enacted.

As you know, changing the deadlines requires Congressional action, and a memorandum concerning this issue was forwarded to Congress signed by Secretaries Ridge and Powell requesting an extension of the deadlines until November 30, 2006. The Secretaries also testified before Congress on this issue on April 21, 2004.

#### IMMIGRATION PROCESSING FEES AND THE BACKLOG (CIS)

*Question.* The number of immigrants awaiting decisions from CIS—including citizenship and permanent resident status—increased 59 percent in the past 3 years. Despite \$160 million appropriated in the past 2 years to remedy the logjam, nearly 6.2 million applications were pending at the end of September, according to a General Accounting Office report. The GAO probe revealed that fees charged by Citizenship and Immigrations Services are insufficient to cover the cost of processing applications—in part due to expanding security costs. According to the GAO, “CIS knows neither the cost to process new applications nor the cost to complete pending applications,” the report said.

In anticipation of President Bush's immigration overhaul, the GAO recommended that Homeland Security Secretary Ridge direct CIS to study the fees and determine how much money will be needed to remedy the backlog. In an August interview with Government Executive magazine, Director Aguirre, you vowed to significantly reduce wait times and application backlogs for immigration benefits by increasing the agency's efficiency through new information technology investments.

Based on the funding proposed by the President, how much of the backlog will CIS be able to eliminate in 2005?

*Answer.* Information on the current backlog and USCIS plans to eliminate it will be provided to Congress in the coming months in a revised Backlog Elimination Plan. USCIS will meet the President's goals of eliminating the backlog and achieving a 6-month processing standard for all immigration applications by 2006.

*Question.* I understand that in order to meet the President's backlog reduction goal by fiscal year 2006, your agency must achieve a 42 percent increase in productivity. Two questions—First, what specific steps are you taking to produce 42 percent increase in productivity? Second, it is essential that you ensure that security background checks are done correctly. If a 42 percent productivity improvement is not accomplished, what will the impact be on making sure that security background checks are completed?

*Answer.* Information on the current backlog and USCIS plans to eliminate it will be provided to Congress in the coming months in a revised Backlog Elimination Plan. USCIS will meet the President's goals of eliminating the backlog and achieving a 6-month processing standard for all immigration applications by 2006.

USCIS will continue to explore ways of improving the efficiency of our national security check processes, but will not place backlog elimination requirements above national security requirements. Backlog elimination will be achieved through efficiency efforts, through development of information technology programs that automate manual processes, and from reengineering processes to reduce adjudication time without sacrificing the integrity of the adjudicative process.

#### PRESIDENT'S IMMIGRATION PROPOSAL

*Question.* What impact would the President's immigration proposal, if enacted, have on the immigration application backlog and on efforts to reduce the backlog? Would the temporary work permits envisioned in the President's plan be issued before or after the benefits sought by the 6.2 million applications in the backlog? What is the plan for insuring that the backlog reduction program does not increase benefits fraud by encouraging the rubber-stamping of applications?

*Answer.* USCIS will need to review specific legislative proposals before it can comment on the potential impact on USCIS' capabilities.

#### CITIZENSHIP AND IMMIGRATION SERVICES AND IMMIGRATION AND CUSTOMS ENFORCEMENT

##### BENEFITS FRAUD

*Question.* Who is responsible for investigating benefits fraud? Both CIS and ICE have asked for funding to investigate benefits fraud, but neither seems to know which is actually responsible.

*Answer.* A January 2002 General Accounting Office (GAO) Report-02-66 entitled "Immigration Benefit Fraud—Focused Approach is Needed to Address Problems" raised concerns about identifying immigration fraud. As a part of the USCIS efforts to reengineer its business processes and eliminate the backlog, the agency is also looking closely at ways to identify and decrease benefits fraud. Immigration and Customs Enforcement will continue to play a vital role in investigating suspicious cases and/or prosecuting the participants in a scheme in conjunction with Federal, state, and local prosecutors.

ICE will continue to perform those enforcement duties enumerated in the OPM classification standards for an 1811 occupational series criminal investigator.

#### IMMIGRATION REFORM AND CONTROL ACT (IRCA)

*Question.* What lessons from the 1986 Immigration Reform and Control Act (IRCA) legalization programs have been applied to the President's Immigration Reform Plan?

*Answer.* The IRCA planning teams developed a strategy that enabled the Service to quickly expand its adjudicative capacity through the establishment of temporary regional processing centers and local interview offices. Temporary employees were hired and trained specifically to adjudicate that workload. INS reassigned experienced executives and managers at all levels to oversee operations, but relied heavily on the skills of retired executives and managers (reemployed annuitants). This strategy enabled the Service to continue its efforts to process the normal casework plus handle the surge in workload caused by the passage of IRCA.

Key components of IRCA were: the development of the regional processing center concept, development of a modular office plan for field interviewing sites, automated data systems to record transactions, and receipt of authority from Congress to expedite certain leasing and contracting requirements. In addition, INS received authority to reemploy annuitants without salary offset. The reemployed annuitant program was absolutely critical to the overall success of the program.

INS worked closely with Congress prior to the passage of IRCA, and that cooperation was also instrumental in INS being able to meet the requirements for the legalization provisions of IRCA.

*Question.* What were the total costs of IRCA's two legalization programs (please break down by main components) and how much revenue was generated in total by the fees charged to process IRCA applications?

*Answer.* The IRCA program was totally fee-funded. Therefore, the number of applications filed and their respective fees determine the total cost of the program. Our analysis to date of the program has determined a total application workload of approximately 2.7 million, with costs/fee revenues totaling \$245 million. The breakdown of this program is as follows: (1) Application for Permanent Residency (2.68 million applications/\$241 million), and (2) Application for Status as a Temporary Resident (6,700 applications/\$3.7 million).

*Question.* How much will the President's Immigration Reform Plan cost, and what components comprise the total cost?

*Answer.* It is expected that costs associated with the USCIS workload would be covered with fees like all other application and petition processing.

*Question.* How many full-time equivalent (FTE) personnel will be necessary to implement the President's Immigration Reform Plan? What level of fees or additional appropriations would be necessary to hire those additional FTEs without further increasing the deficit?

*Answer.* This information will be available once Congress has drafted the legislation and the specifics are known.

#### DATA BETWEEN 1996–2003

*Question.* Please provide a comparison of the size of the fugitive alien population from 1996–2003. Please also provide the same information regarding the backlog, as well as the backlog of matters pending in the Immigration Court for the same period.

*Answer.* Below are the estimates of the number of fugitive aliens based on the year that they received their order of removal, based on information in the Deportable Alien Control System (DACS).

Fiscal year	Absconders
1996 .....	130,296
1997 .....	157,220
1998 .....	186,944
1999 .....	214,580
2000 .....	239,656
2001 .....	265,427
2002 .....	295,336
2003 .....	320,364

ICE defers to the Executive Office of Immigration Review (EOIR) to respond to your question regarding the number of backlogs of matters pending in the Immigration Court for the same period of time.

#### CUSTOMS AND BORDER PROTECTION

##### TERRORIST WATCH LIST INTEGRATION

*Question.* One of the most important items on the Department's list of unfinished business is the integration of terrorist watch lists. Earlier this year, Secretary Ridge said the list would be fully functional "by mid-May." Because the agencies you oversee—Customs and Border Protection and Immigration and Customs Enforcement—rely daily on accurate information about the potential threats to this country posed by individuals on these lists, I would expect that the integration of this information would be a priority.

It is not clear to me whether the integration of the watch lists is an FBI responsibility or that of the Department. Is it a DHS responsibility or an FBI responsibility to integrate the watch lists and when do you expect the integration to be complete?

*Answer.* Terrorist Watch Lists are the responsibility of the Terrorist Screening Center (TSC), and the Terrorist Threat Integration Center (TTIC). CBP submits names for watch listing to the TTIC through CBP's Office of Intelligence. Since the CIA, FBI and DHS have joint responsibility for the TTIC (TSC is a subsidiary of the TTIC), the responsibility lies with the TTIC as a whole. Currently, the Director of the CIA oversees that operation of the TTIC.

##### CONTAINER SECURITY INITIATIVE

*Question.* An additional \$25 million is requested for fiscal year 2005 to expand the Container Security Initiative. This innovative program has placed CBP inspectors at numerous overseas seaports to work with their host country counterparts at targeting potentially dangerous containers for enhanced inspection prior to being loaded on U.S.-bound ships.

In December, Subcommittee staff were able to see this program in action in Asia. They spoke with the inspectors, discussed their working relationships with the host country inspectors, and witnessed both the physical inspection of individual containers. The U.S. inspectors were quite enthusiastic about performing their duties. But both they and the foreign counterparts expressed concern that our personnel were being rotated through the countries on a temporary basis, as opposed to being



in country for extended tours of duty. In part because of cultural differences in various countries, they stressed the importance of remaining overseas to strengthen working relationships with the foreign customs officials rather than starting from scratch with each new team of U.S. inspectors.

Does your budget request provide for longer tours of duty for CSI team members? Are you actively making CSI tours a career “enhancer” for your personnel—most of whom are not oriented to working overseas? Are your people receiving the necessary support from U.S. ambassadors in establishing and expanding the CSI presence overseas? Also, what would be costs of fully funding all Phase II CSI ports?

Answer. Our budget includes funding for permanent overseas positions. We are currently using TDY (temporary duty) personnel overseas but have initiated the process for obtaining State Department approval for the permanent positions. The embassy is providing the necessary support to enable CSI to establish and expand its presence overseas. That is evidenced by the State Dept’s willingness to approve NSDD 38’s to establish permanent positions in the respective countries. The NSDD38 (National Security Decision Directive) requests are currently being processed at DHS and will be forwarded to Department of State for final approval. We have also developed a comprehensive training program for the permanent employees, which include operational, administrative and cultural training. We are working closely with the overseas posts to transition our temporary staff to permanent staff.

Costs for funding the future ports are impacted by the opening date of the port, infrastructure requirement, staffing and equipment, etc. Our projected budget for fiscal year 2005 is sufficient to cover the costs of our expansion ports that will open in fiscal year 2005.

#### OVERSEAS AIRLINE PASSENGER INSPECTION

*Question.* There have been press reports that your agency is considering placing CBP inspectors at certain targeted overseas airports to pre-screen passengers before they board flights to the United States. I understand that the goal is to prevent potential terrorists from boarding a plane and either hijacking it or blowing it up. That is certainly a goal we all share.

However, because they screen passengers who board U.S.-originated flights, is this not more properly a Transportation Security Administration role? Will you be screening all passengers or only those holding foreign passports?

If you are accessing passenger databases, which databases are they and what privacy protections are you planning on implementing? Also, when will Congress be notified of this program? We’ve only see reports on it in the media.

Answer. U.S. Customs and Border Protection (CBP) Officers will be deployed overseas to perform a tactical function, the goal of which is to prevent the onward movement of people identified as national security threats. This program will replace the legacy INS Immigration Control Officer (ICO) Program. The Immigration Security Initiative (ISI) will also disrupt or deter the transportation of inadmissible aliens and the proliferation of fraudulent documents. In the course of these duties, the ISI will provide information to host countries, or appropriate authorities regarding travelers of interest.

Although these efforts can result in the development of intelligence information, the primary function of the ISI is to use current targeting and passenger analysis information provided by the National Targeting Center (NTC) and the Forensic Document Lab (FDL) to focus on high-risk persons. These efforts may lead to the apprehension and prosecution of criminals and persons of national security interest by host countries, the disruption of attempts to smuggle aliens and contraband, and the disruption of attempts to enter the United States with fraudulent documents.

When an ISI Officer identifies a traveler that should be prevented from boarding a flight to the United States, the ISI will work with the host country’s immigration and/or customs control authority and the air carrier who will take the appropriate action to prevent the person from boarding the flight. The ISI will not have any authority in the host country to take such action. Information provided to the host country on these types of individuals will be vetted through the appropriate authorities before any information is released to the host country.

Both TSA and CBP perform important functions in ensuring the safety and security of the United States. However, TSA does not have the authority CBP holds to perform the particular targeting function of ISI in another country. ISI is the tool that we propose to use in deterring individuals that may pose a threat to the safety and security of the United States from boarding U.S.-bound flights, not U.S.-originated flights.

In fiscal year 2004, CBP will initiate a pilot of the ISI program in Warsaw, Poland. We estimate the cost to be approximately \$500K for each ISI site. Once the pilot is evaluated we'll have better information regarding the future of the initiative.

#### ISIS BORDER COVERAGE

*Question.* How much of the northern border and how much of the southern border is covered by ISIS?

Answer: Currently the ISIS program covers the following:

- Northern land border: 99 miles
- Southern land border: 290.5 miles
- Total: 389.5 miles

#### BORDER PATROL STAFFING

*Question.* Have the USA Patriot Act's requirements for Border Patrol staffing on the Northern Border been met? If so, when was this goal achieved? Was this achieved through the transfer, on either a temporary or permanent basis, of personnel from the Southwest Border or elsewhere? If so, does your budget request provide sufficient funds to restore staffing at those locations to their authorized levels? If not, what additional funds and FTEs are required to reach that goal?

Answer. The number of agents on the northern border had been increased to 1,006 as of the end of December 2003. This is triple the number of agents that were assigned along the northern border prior to 9/11 and meets the Patriot Act's requirement for staffing on the Northern border. The number of agents currently assigned to the northern border remains at 1,006.

The agent increase was accomplished through the permanent relocation of experienced agents from across the nine southern border sector areas. The CBP budget has sufficient funds to backfill the agent vacancies through a combination of new agent hires and the relocation of agents among the southern border areas. Additional funds and FTEs will not be required to restore the staffing levels at the southern border

#### ALTERNATIVES TO VACIS

*Question.* My staff is aware of the existence of non-intrusive inspection technology (such as back-scatter gamma ray devices) that provides a higher degree of resolution when inspecting shipping containers and other closed containers. In fact, they saw some of these devices in use at a seaport in Asia late last year. Is CBP considering the procurement of next-generation devices which provide enhanced resolution either when replacing existing, aging systems or for deployment at new locations? If so, what are the approximate costs of the systems under consideration versus the costs of the existing systems? Do these newer systems provide a significant improvement for inspectors over existing systems? Conversely, if you are not considering procuring new systems, why not? Is it due to cost, other considerations, or both?

Answer. "Back-scatter" technology, which is associated with X-ray systems and not gamma ray systems, was developed by American Science and Engineering (AS&E) in the 1980's. For many years now, Customs and Border Protection (CBP) has operated a large number of devices, which have this capability, including large-scale truck/container imaging systems. Back-scatter images can indeed provide information, which is not available from a transmission X-ray or gamma ray image. Like any technology though, it has its limitations—the amount of penetration into vehicles or containers, and the resulting image, depends in large part on the type and amount of commodity being scanned. CBP operates a variety of X-ray and gamma ray imaging systems.

The costs of the back-scatter technology will vary depending on the configuration of the system. There are back-scatter-only systems which cost less than gamma ray imaging systems and there are transmission/back-scatter X-ray systems which cost significantly more than gamma ray systems. The requirements, which define what type of system is needed to meet operational demands, are much broader than just this single technical criteria. CBP recently purchased a new AS&E product, the ZBV (back-scatter only) X-ray van, which is now being tested in Arizona. We are preparing to field two new high (>6 MeV) energy, mobile sea container X-ray systems later this summer to U.S. seaports. CBP also recently upgraded an existing 2.5 MeV mobile X-ray system to 3.8 MeV, and is now testing it at the Port of Baltimore. CBP continually evaluates promising new technologies, which have the potential to enhance or replace existing systems.

## ENHANCING BORDER PATROL INTEGRATION INTO CBP

*Question.* During briefings with my staff it appears that coordination and integration of certain Border Patrol activities, programs, and systems has not gone as smoothly as it might otherwise be expected. Sometimes it appears that inquiries made by staff come as a surprise to Border Patrol and the CBP staff. For instance, we asked questions about the procurement of high-endurance vehicles for the Border Patrol only to learn that the CBP vehicle management team was working on a longer-term vehicle management plan of which Border Patrol was not a part. I understand there are growing pains and learning curves when creating a new Department, but issues such as development of a unified inventory of goods and activities seems rather basic. What concrete steps have CBP and Border Patrol taken to ensure that each entity knows what the other is doing?

*Answer.* With the merger of the U.S. Border Patrol into U.S. Customs and Border Protection (CBP), the integration of border patrol activities was established as one of our highest priorities. The Border Patrol was established as an Office reporting directly to the Commissioner with the Chief of the Border Patrol having equal status to our Assistant Commissioners. Border Patrol Sector Chiefs participate in all CBP Executive Leadership meetings. Representatives from the U.S. Border Patrol have been included in all transition management activities and in some instances have actually served as the leaders of groups addressing integration and merger issues. The issues addressed not only operation mission responsibilities, but mission support operations as well.

Knowing that the Border Patrol's functions and responsibilities are key to the security of our homeland, the following are examples of integration activities in which the Border Patrol has been, and will continue to be actively involved:

- Immediate participation in the CBP “around the clock” Situation Room.
- Integration of border patrol agents into CBP's intelligence structure.
- Identification of resources, staffing, and property transfers and modifications to information systems necessary to stand up CBP on October 1, 2003.
- Analysis of vehicle fleet requirements as part of CBP's replacement and upgrade strategy.
- Participation in a procurement “War Room” to train and certify border patrol employees in CBP contract and procurement processes and reduce an inherited backlog of outstanding procurement actions.
- Determining the process and infrastructure to consolidate the tactical communications program in order to create more unified communications structure and assure officer safety through interoperability.
- Migration of and training for all border patrol employees to CBP's administrative systems for processing travel, payroll, procurement, and human resources.
- Identifying technologies to share and to use as force multipliers to increase CBP's enforcement capacity.
- Designing a process for incident reporting to ensure clear reporting for rapid notification to senior management of significant incidents.
- Developing a strategy, policies and procedures for integrating the processing of seizures, forfeitures, fines and penalties into a consolidated process for all of CBP to assure property and fiscal accountability.
- Proposing an integration plan for unifying operational policies, resource management and best practices for the CBP Canine program.
- Cross training Border Patrol agents in anti-terrorism concepts and techniques.

## BORDER PATROL VEHICLES

*Question.* What is the status of the review of the need for high-endurance vehicles for the Border Patrol? What performance measures are you using for determining the need to procure additional or different high-endurance vehicles? Are there funds in the fiscal year 2005 budget request to procure additional high-endurance vehicles?

*Answer.* U.S. Customs and Border Protection (CBP) recently entered into a contract with Nevada Automotive Transportation Center to conduct a terrain mapping study. This is a joint effort between the Office of Finance and the Office of Border Patrol Information Technology Unit. Information obtained from the study will be used to evaluate the terrain and recommend the type of high-endurance vehicles needed to meet mission requirements and provide for Agent safety.

CBP will determine the correct vehicle to be procured based on life cycle studies, performance measures and the outcome of the terrain mapping study. The performance measures will include, mission requirements, life cycle costs, durability and downtime of vehicles.

Currently, there are no funds designated in the fiscal year 2005 budget to procure additional or replacement high-endurance vehicles.

#### LAND BORDER "EXIT" CONTROL OF US VISIT

*Question.* What impact will the "exit" component of US VISIT have on the land borders? Do you anticipate that additional outbound inspection lanes or other facilities modifications will have to be created in the coming years? If so, when can we expect to receive an estimated plan of those construction and other requirements? Is CBP an active participant with the US VISIT program office?

*Answer.* The impact of the US VISIT exit program on land border facilities, outbound lanes, and possibly staffing will depend on the process/solution that is deployed. It will also depend upon the timing of the rollout of the exit strategies.

After US VISIT awards a contract to their prime integrator for the land border entry/exit system, expected in mid-fiscal year 2004, and the integrator offers a more comprehensive solution, CBP will better understand the extent of the impact to our operations. CBP will continue to work closely with US VISIT to develop an exit solution. .

#### COBRA EXTENSION

*Question.* What is CBP currently doing to fix the COBRA overtime cap issue which has caused Customs Inspectors and new CBP officers to lose the ability to contribute \$2,500 towards their base pay for calculating their retirement annuity? The current overtime earning cap has been reduced from \$30,000 to \$25,000 due to a legislative language drafting issue in the fiscal year 2004 DHS Appropriations bill. Does your budget request provide a legislative fix to this unintentional drafting error?

*Answer.* This unintentional oversight is being addressed through various channels. The Department of Homeland Security is working on a legislative change to equalize the overtime caps for all U.S. Customs and Border Protection (CBP) employees, while CBP is investigating the possibility of cap waivers that would allow officers to exceed the \$25,000 cap in fiscal year 2004.

*Question.* Does the fiscal year 2005 Budget assume the merging of Customs/INS/Agriculture user fees? In addition, what does the fiscal year 2005 budget estimate will be received in COBRA user fees for fiscal year 2004?

*Answer.* The fiscal year 2005 Budget does not assume that the Customs/INS/Agriculture user fees will be merged. CBP is projecting that \$303 million will be received in COBRA user fees in fiscal year 2004.

*Question.* Does the fiscal year 2005 budget assume the reauthorization of COBRA which is set to expire on March 31, 2005?

*Answer.* Public Law 108-121 reauthorized COBRA through March 1, 2005. The fiscal year 2005 budget assumes that COBRA will be reauthorized beyond the March 1st expiration date.

#### SIXTH DAY OF FLETC TRAINING

*Question.* What is the Department doing to correct the problem of the Department not paying legacy Customs Inspectors and new CBP officers for their required work on the sixth day of basic training at the Federal Law Enforcement Training Center (FLETC)?

*Answer.* We do pay employees covered by the Fair Labor Standards Act (FLSA) overtime while engaged in training at FLETC for 6 day weeks. The Government Employee and Training Act (GETA) prohibits us from paying non-FLSA employees under FLSA provision. Our COPRA covered front-line personnel are not subject to FLSA. COPRA was specifically designed for Customs Officers and is the exclusive pay act for our Customs legacy personnel. Our agency position on this matter was recently sustained in an arbitration decision.

#### CROSS-TRAINING

*Questions:* What amount of training dollars per officer (i.e., "modular costs") is currently being spent for customs training vs. immigration training?

Is CBP requiring both legacy Customs and legacy INS/Border Patrol personnel to attend cross-training programs? What percentage of legacy Customs vs. INS/Border Patrol personnel has actually completed such training? Does CBP intend that all enforcement personnel will undergo such cross-training, and if so, when is that training expected to be completed?

Legacy immigration inspectors have said that compact discs (CDs) are being used for training legacy Customs personnel in immigration law, while legacy INS/Border

Patrol personnel must attend in-person training in Customs law. How does CBP ensure that the material on the CDs is being learned? What evidence does CBP have that training at-home training with a CD is as effective as in-person training?

Answer. The CBP Officer Training Modules are being developed by CBP under one initiative using field subject matter experts with experience in customs, immigration and agriculture for the determination of course content. Each individual will receive the training needed to achieve full competency as a CBP Officer. Costs are not allocated on a per-officer basis as each officer receives a training package tailored to meet their individual need.

CBP will require both legacy Customs and legacy INS inspectors to attend cross training programs. There are many different audiences for the different modules:

- New CBP Officers
- CBP Customs Inspectors
- CBP Immigration Inspectors
- CBP Agriculture Specialists
- New CBP Agriculture Specialists

Because of the differences in roles and geographic areas served, Border Patrol personnel were not integrated into the CBP Officer position and are not required to participate in the cross-training initiatives.

Of the 21 training modules that have been developed to support CBP Officer training priorities, 15 have been identified as cross-training programs for legacy Customs inspectors, INS inspectors, or both. Integrated training modules will be rolled-out and delivered over the next 12-months.

Integrated training will be delivered in the field locations. There are different delivery methods for the modules, ranging from classroom, to computer-based, to video, to on-the-job. And, there is different timing for delivery of the modules; for example, some will be taken by new CBP Officers as soon as possible after their return from the Academy. The integrated training for other CBP Officers will be mandatory, and will be based on the operational needs of a given port. Inspectors who are converted to the CBP Officer position will not be expected to perform new functions until they have demonstrated the knowledge and skills required for that function.

Compact Discs (CDs) are being used solely as a prerequisite to classroom training. The CDs are a 6-hour course in Fundamentals of Immigration, and a 10-hour course in Immigration Law. All CD self-study training includes rigorous tests that are administered to ensure students are prepared for the 5 days of intensive classroom training that provides additional study and application of the law.

The classroom portion is followed by an extensive on-the-job training requirement. Finally, additional classroom instruction will be provided to prepare the Officers for more advanced tasks. Approximately 80 hours of instruction will be delivered to each Officer. The same method of training is being developed for customs law.

Currently customs law is being delivered as a course at the CBP Academy to new Officers.

Due to the complexity and immediate need to get this training to the intended users, CBP determined that the best method for delivering immigration law training to legacy Customs personnel was by Compact Disc (CD). By using CD's, the officers could complete the training as required and have a consistent, convenient, available, ready-reference information to use. The completion of the CDs takes place during the CBP Officers regular duty assignments; the CBP Officers do not complete these CD's at home.

The Officer is evaluated by an examination at the end of each module. If successful, the officer receives a certificate of completion for that specific module of training. If unsuccessful, the Officer receives feedback and information as to what areas of the training requires more study. The Officer is required to repeat that module and re-take the examination until the modules are completed at the required knowledge level.

#### CONTINUED DUMPING AND SUBSIDY ACT

*Question.* Please provide an update on CBP efforts to implement last year's Treasury IG recommendations on how to improve administration of the Continued Dumping and Subsidy Offset Act.

Answer. CBP has completed three fiscal year cycles under the CDSOA. To date, CBP has disbursed over \$750 million to affected domestic producers. An additional \$50 million in fiscal year 2003 duties is currently being withheld pending the outcome of a court case. Total number of claims processed to date is over 4,000. As a result of a recent IG investigation into this program, CBP has added resources, improved process controls, and transferred responsibility for the program to the CBP

Chief Financial Officer. CBP is currently in the planning stages for the fiscal year 2004 disbursement process. We will be publishing a Federal Register Notice in June or July, announcing our Intent to Disburse fiscal year 2004 funds and inviting affected domestic producers to file their certifications in a timely manner. Under the existing statute, we are required to disburse the fiscal year 2004 funds no later than 60 days after the end of the fiscal year, or November 29, 2004.

*Question.* How much was spent in fiscal year 2002–2004 to administer the program? What is the estimated cost for fiscal year 2005?

Answer. From fiscal year 2002–2005, the estimated annual expenses incurred by Customs and Border Protection (CBP) to administer this program are approximately 18 FTE and \$1.9 million.

*Question.* On March 19, 2004, CBP issued its Annual Report (2003) on the “Byrd Amendment” trade law. This is a law I helped enact that allows CBP to reimburse U.S. companies that have been injured by unfair trade with funds that are collected as import duties on unfairly traded imports. The CBP report states that, while CBP should have distributed at least \$320 million in collected duties to eligible U.S. companies and workers in 2003, it was able to distribute only \$190 million because CBP failed to collect \$130 million from unfair traders. Most of the uncollected \$130 million consists of import duties not collected by CBP on goods from China, in particular. While part of the problem is that Chinese companies are refusing to pay these duties, it also appears that CBP is failing to enforce the U.S. trade laws because it is not diligently pursuing the parties who are refusing to pay these duties.

Why is CBP not collecting millions of dollars in duties on unfairly traded imports as required by U.S. law?

Answer. CBP is correctly assessing duties on all imports into the United States as required by U.S. law. CBP charges importers for post entry changes to this assessment. CBP vigorously pursues collection of all outstanding debt liabilities.

*Question.* If the duties are not now being paid, what does CBP plan to do to make certain that the duties are paid and collected in the future?

Answer. CBP has developed a national trade strategy that specifically addresses the high priority issues and risks in trade. Anti dumping and countervailing duty (AD/CVD) and revenue collection are two priorities within the strategy. Action plans have been developed to address specific risks to these issues. Included in the plans are innovative approaches to establishing bonding limits, specifically for anti-dumping imports, that are commensurate with the financial risks of the transaction.

*Question.* Why, in your view, does the problem seem to involve more imports from China than from any other country?

Answer. There are a number of possible factors. There are currently more anti-dumping and countervailing duty orders in place for China (54) than for any other country. In addition, China has been named in half of the 16 petitions filed with the International Trade Commission (ITC) in the last 7 months.

There is also volatility in the deposit rates issued by the Department of Commerce (DOC) and administered and enforced by CBP for dumping cases concerning China. DOC adopts the presumption that the PRC is a nonmarket economy during their investigations. The success or failure of a particular exporter/producer to satisfy DOC that they are independent from the PRC government affects the rate they are subject to. It is possible for deposit rates to fluctuate significantly during the course of the DOC investigation as well as in the final rate depending on their ability to respond to DOC.

*Question.* How does CBP specifically plan to address the fact that the bulk of the problem concerns imports from China?

Answer. CBP currently has in place trade strategies that focus specifically on anti-dumping/countervailing duty and revenue. Each of these plans has a multi-office working group responsible for the development, oversight and evaluation of the plans. These plans have already developed and implemented a number of actions that address dumping as a whole and by inclusion, China. These actions include identification and clean up of outstanding dumping entries, increased operational oversight of the dumping process, development of improved mechanisms to ensure and monitor adequate bonding of dumping entries, and improved communication with DOC.

*Question.* Some believe that, if it were not for the Byrd Amendment, CBP would have no way of knowing that these millions of dollars in duties were not being collected. If this is true, do you believe that CBP should adopt additional ways to determine whether import duties are being paid by importers and collected by the United States Government?

Answer. While CBP does have adequate controls in place to ensure that collectible debt is collected, we are working to strengthen these controls to help us identify potential uncollectible debt earlier in the process.

CBP has standard reports that list all unpaid and overdue bills, including those for unpaid anti-dumping and countervailing duties. Some anti-dumping and countervailing duties have not been and will not be collected when importers go out of business or go bankrupt, and bond coverage is insufficient. As a part of the normal business process, those amounts would not have been collected and deposited into general fund receipts. Until the Byrd Amendment, these uncollected amounts were not directly related to the injured parties involved with anti-dumping and countervailing duty cases. The relationship that injured parties now have regarding the anti-dumping and countervailing duty amounts uncollected, as direct beneficiaries, makes this issue now especially significant.

*Question.* In your response to my questions at today's hearing regarding why Customs has been unable to collect duties on unfairly traded imports—particularly from China—you indicated that there is a need to address systemic problems at both the U.S. Department of Commerce and the U.S. Department of the Treasury. Could you please advise me of the specific actions, including regulatory reform, that CBP is and will be asking these other agencies to undertake to better enable CBP to collect duties on unfairly traded imports?

*Answer.* CBP and DOC have working groups which meet together on a regular basis to identify the systematic problems and to develop action plans to address these problems. CBP has also undertaken a national bond review program which is increasing the monitoring of bond sufficiency to ensure that sufficient bonds are in place at all times to protect the revenue. Legislative proposals are also being considered which would reinforce CBP's ability to require sufficient bonds.

*Questions.* CBP's Annual Report on the Continued Dumping and Subsidy Offset Act ("CDSOA") for fiscal year 2003 showed that CBP was unable to collect over \$130 million in antidumping duties in 2003. Of these uncollected duties, over \$100 million relate to Chinese imports. There have been reports that these uncollected duties reflect active efforts by Chinese parties and their U.S. affiliates to avoid paying U.S. antidumping duties by, among other things, quickly importing large amounts of goods, then filing for bankruptcy to avoid liability for duties and engaging in other fraudulent conduct.

*Answer.* We don't know if these were fraudulent situations. However, in these situations it is important to determine timely that an anti-dumping or countervailing duty case is a factor in the importation. When it is, adequate bond coverage should be required based on the findings that anti-dumping and countervailing duties are warranted. In addition, the bond amount should not be limited to the preliminary determination rate, but at least set at 100 percent of the value of the commodity involved on an entry by entry basis. This would resolve under collection situations in the major portion of cases where preliminary determination rates were understated and bond amounts were set accordingly. In the event that an importer goes out of business or bankrupt, then the bond amount would be sufficient in most cases (at least where the final determination rate by DOC is not greater than 100 percent of the value of the imported merchandise).

*Question.* Has CBP seen evidence of such conduct with respect to importations from China of goods subject to antidumping duty orders?

*Answer.* On a case-by-case basis, there appears to be instances where importers of Chinese merchandise bring in a large volume subject to anti-dumping duties and file bankruptcy prior to CBP's collection of the full assessment of these duties.

*Question.* Is there evidence of an organized effort by China, Chinese parties, affiliated U.S. parties and/or their representatives to avoid these duties? Could you provide such evidence?

*Answer.* No, CBP has no evidence of a Chinese conspiracy in this area.

*Question.* Please explain the various means by which these parties are avoiding the payment of import duties. Please quantify the extent to which these means contribute to CBP's inability to collect duties in specific Chinese antidumping duty cases.

*Answer.* We know that bills have been issued to some importers who filed for bankruptcy, therefore forcing us to collect outstanding debt from the surety. This has caused financial problems for some surety companies, which have then been forced into bankruptcy. Part of the work being done within CBP includes the identification of the areas of concern and then the quantification of these areas to prioritize them.

*Question.* To what extent does the ability of importers to post bonds on imports by "new shippers" from China contribute to the ability of Chinese parties and their U.S. affiliates to avoid paying antidumping duties?

*Answer.* The "new shipper" designation allows for a deferral of payment of potential AD/CVD if the party is indeed a new shipper.

*Question.* Does CBP have evidence that these parties are fraudulently obtaining new shipper bonds? Please explain.

*Answer.* CBP has no evidence that these parties are fraudulently obtaining “new shipper bonds”. There is no “new shipper bond”, just the Customs Bond. “New shipper” is a status that certain parties can claim, which is issued by Commerce.

*Question.* Are there steps that CBP has taken or can take to alert bonding companies to the potential financial risks posed by Chinese “new shippers” and their U.S. affiliates?

*Answer.* No. Companies are granted bonding authority by the Department of Treasury. The normal business process involving importation has sureties bonding the importer of a record’s entry transactions based on possible duties, taxes and fees involved, and other regulatory reasons that require an entry bond. When a preliminary determination is published in the Federal Register, the public is advised, and bond coverage is administered accordingly by CBP. This public information and other information that a surety can require (including the financial ability of the importer of record to pay their duties, taxes and fees) should be sufficient.

*Question.* Current law permits importers of goods from “new shippers” to pay deposits of estimated dumping duties by posting bonds, rather than making cash deposits, as occurs in most other cases. A longstanding agreement between the Department of Commerce and CBP requires that such bonds be in the form of single entry bonds (“SEBs”). In recent years there have been frequent reports that, notwithstanding its agreement with the Department of Commerce, CBP has not been obtaining SEBs for “new shipper” imports and in other required instances.

To what extent does the amount of uncollected duties shown in the 2003 CDSOA report reflect CBP’s failure to obtain required SEBs? For each antidumping duty case for which there were uncollected duties in fiscal year 2003, please quantify the extent to which CBP’s inability to collect duties was attributable to a lack of requisite SEBs or other deficiencies in bonding.

*Answer.* Extensive research will be required to provide a response to this question in consultation with the Committee.

*Question.* The CDSOA report for 2003 reports that there is over \$283 million in antidumping duty-related bonds in individual antidumping duty clearing accounts for unliquidated entries. To what extent are these bonds the required SEBs as opposed to standard continuous bonds? To the extent that these bonds are not the required SEBs, what, if anything, can CBP do to require SEBs for these amounts?

*Answer.* CBP cannot determine which amounts are covered by SEB vs. continuous bonds. CBP lacks authority to obtain retroactive SEBs.

*Question.* Please detail the steps being undertaken by CBP and the Department of Commerce to require SEBs on all import entries for which they are required? Please confirm that SEBs are being obtained in all cases in which they are required and explain how CBP has verified this conclusion. If SEBs are not being obtained in all required cases, please explain why not and explain what CBP is doing to address the problem.

*Answer.* DOC may also allow bonding in AD/CVD cases other than new shipper reviews. In accordance with T.D. 85–145, CBP requires single-entry bonds in instances where bonding is permitted and the deposit rate is 5 percent or greater. Policy reminders have been issued to all field locations and importers of their responsibility to secure a single-entry bond in these instances to cover AD/CVD duties.

ACS (Automated Commercial System) has the capability to track the existence of only one type of bond. The majority of importers have continuous bonds to cover normal imports. CBP instituted a policy in October 2003 that requires additional bond reporting requirements to track single-entry bonds electronically. CBP monitors this requirement on a monthly basis.

*Question.* Please explain how domestic producers can confirm that imports of competing goods subject to antidumping duty orders are secured by required cash deposits or SEBs. Who are the points of contact at CBP on this issue?

*Answer.* Domestic producers cannot confirm this information. This information is contained on CBP entry documents. CBP has long considered information on entry documents exempt from disclosure pursuant to 5 U.S.C. 552(b)(4). Furthermore, the Trade Secrets Act (18 U.S.C. 1904) prohibits Federal employees from disclosing such information and imposes personal sanctions on employees who do so.

*Question.* Is there any way of advising when bonds are issued and how they can be tracked from the point of issuance? What percent of bonds are collectable? Why is it that in cases involving critical circumstances, a very small portion is collectable? Is the problem one of administration between the Commerce Department and Customs? Could an importer be held liable if the exporter refuses to pay?

*Answer.* There is no way of advising when bonds are issued and tracking them from the point of issuance. Data is not currently available to determine what per-



cent of bonds are collectable. In the cases involving critical circumstances, a very small portion is collectible because the bonds are issued at the time the goods are released, based on the amount of duties/taxes/fees assessed when the goods are released. CBP does not have the legal authority to demand an increase in a bond retroactively (after the release of the goods), which, in critical circumstances is when CBP becomes aware of the fact that a higher bond amount is needed. CBP is working on legislative initiatives, which may include a statutory change that would allow us to demand a higher bond retroactively. The importer is always held liable for payment of duties/taxes/fees.

*Question.* Finally, if there is a serious problem in cases where bonds are permitted, wouldn't a logical solution be simply to require cash deposits—at least in all new shipper reviews?

*Answer.* The Department of Commerce has jurisdiction in this matter and can best address it.

*Question.* Explain and quantify the budgetary, manpower, technical and other impacts on CBP of administering the bonding option for imports from new shippers under antidumping duty orders.

*Answer.* While CBP is unable to quantify the manpower impact of administering the bonding option for imports from new shippers under anti-dumping orders, our inability to require the bonds post release hinders our collection efforts drastically. If a party claims new shipper status, then the determination is made at a later date that the party actually was not eligible for new shipper status. CBP has no legal authority to retroactively require a bond for those entries that were released (and bonded) under the benefits of new shipper status.

*Question.* On December 4, 2003, the White House Office of Communications issued "The President's Determination on Steel," which stated that President Bush "is committed to America's steel workers and to the health of our steel industry." It also stated that, "[s]teel import licensing, established when the safeguard measures were imposed, will continue to provide WTO-consistent data collection and monitoring of steel imports. This will enable the Administration to quickly respond to future import surges that could unfairly damage the industry."

The President's Proclamation of the same date similarly stated that "the licensing and monitoring of imports of certain steel products remains in effect and shall not terminate until the earlier of March 21, 2005, or such time as the Secretary of Commerce establishes a replacement program."

Secretary Evans made several comments to the media on December 4, 2003, regarding the Administration's commitment to the U.S. steel import monitoring and licensing system and indicated that it would be expanded to include steel products that were not subject to 201 tariffs and quotas. I want to be certain that the Administration remains fully committed to this effort.

Could you please advise me as to whether the Administration has a plan to expedite the adoption of the new, expanded program?

*Answer.* In the President's Proclamation, the President stated that "the licensing and monitoring of imports of certain steel products remains in effect and shall not terminate until the earlier of March 21, 2005, or such time as the Secretary of Commerce establishes a replacement program." The President has clearly assigned the authority to establish a replacement program with the Secretary of Commerce and therefore Customs and Border Protection (CBP) is not in a position to offer comments on the Secretary's plans to expedite the adoption of the new, expanded program. As the licensing system was established in March 2003, CBP's role in the system consists solely of the collection of the licenses that have been issued by the Department of Commerce. All other implementation and monitoring responsibilities lie with the Department of Commerce.

*Question.* Could you also please advise me of when the Administration intends to request public comment with respect to its new import monitoring and licensing system?

*Answer.* The responsibility of the licensing system lies with the Department of Commerce; CBP is not in a position to respond as to when the Department of Commerce intends to request public comment with respect to its new import monitoring and licensing system.

*Question.* When would you estimate that it will be up and running?

*Answer.* CBP is not in a position to estimate when the Department of Commerce will implement the new import monitoring and licensing system. CBP is committed to taking the necessary steps to implement programming and operational changes needed to successfully enforce the licensing program once the Department of Commerce has established it.

*Question.* What assurances can you provide that the system will be operational by that date?

Answer. CBP will defer to the Secretary of Commerce on the timelines for implementation of the new licensing and monitoring system.

*Question.* The U.S. domestic steel industry and CBP have maintained a mutually beneficial partnership since the mid-1960's. The keystone of the Customs-Steel Partnership is a program of seminars and meetings where experts from the U.S. steel industry train Customs officials in the important aspects of steel identification, classification, trade law, and commercial issues. The program also provides steel mill tours, reference books, videos, sample kits, and other work tools for Customs officials. Customs brokers, invited to the meetings at Customs' request, serve as the link between importers. Customs also derives significant benefits from the seminars.

When the President ended the Section 201 remedies for steel more than a year before originally scheduled, he promised to continue to focus on steel licensing, import monitoring, and the enforcement of our trade laws. The Customs training program provides significant enforcement education to this end. Congress appropriated \$1.25 million to fund the Customs Steel Partnership training programs in fiscal year 2003 and fiscal year 2004. We would like to see the same level of effort in Customs training during the coming fiscal year and want to work with the Administration to secure an appropriation of \$500,000 for fiscal year 2005.

Will the Administration support the continuation of funding for this vital program as part of the Homeland Security appropriation in the amount of \$500,000 for fiscal year 2005?

Answer. The funding is provided as part of the Homeland Security appropriations for fiscal year 2003 to enhance CBP's ability to train and enforce steel trade laws was a key component in the agency's ability to administer and enforce the Steel 201 Proclamation. The President's fiscal year 2005 Budget for CBP addresses the organization's highest priorities.

*Question.* Can CBP confirm the view expressed by many Customs officials involved in the Customs Steel Partnership, that its benefits are considerable? So much so that it and the Customs Steel Partnership Training Program in particular serve as a model for the establishment of other Industry/Customs Partnerships?

Answer. CBP can confirm that the Customs Steel Partnership Training Program provided benefits to CBP as well as the importing community. The training sessions continue to include Customs Brokers, importers and exporters. While the Customs Steel Partnership has allowed CBP to expand the size of the audience to be trained, there may perhaps be a more efficient manner in which to fund and/or administer the funding for said Customs Steel Partnership Training Program. Due to the complicated procurement and budget procedures under which CBP operates, it may be more beneficial for all parties involved if there is direct funding provided by the Steel Industry. CBP could continue the partnership with the Steel Industry, as we have since the mid-1960's, but perhaps there is a more mutually beneficial avenue in which to continue and enhance said partnership.

*Question.* Concerns exist about the adequacy of existing practices surrounding the enforcement of the U.S. antidumping duty law against imports from non-market economies, but particularly China. With the extraordinary trade deficit that the United States is running with China, can you provide details of what changes in the enforcement of the U.S. dumping law are being considered for non-market economy cases and when the agency will be implementing such changes?

Answer. This would be best addressed by the Department of Commerce.

*Question.* Last year, the Department of the Treasury's Office of the Inspector General completed an audit of CBP compliance with the Continued Dumping and Subsidy Offset Act (CDSOA). The OIG's report, which was issued in August 2003, by the DHS IG, found a number of areas in which CBP could improve its management of this program. Specifically, it noted the need to (1) properly establish special accounts, and (2) pay claimants within 60 days after the end of the fiscal year. In addition, the OIG stated that CBP had not instituted standard operating procedures and adequate internal controls for the management of the CDSOA program. CBP said it had established a CDSOA working group to address both the recommendations and management considerations identified by the OIG.

What has the working group done to address the recommendations and management considerations identified by the OIG? Has it established special accounts? Are claimants paid within 60 days of the end of the year? Are checks sent to proper addressees? Who is responsible for preparing and sending the checks on time?

Answer. The working group recommended, and the Deputy Commissioner approved, the consolidation of responsibility for most of the program with the Office of Finance, National Finance Center (NFC). Once this was done, procedures and controls could be strengthened. This included the establishment of crosschecks to identify problems such as the overpayments reported by the OIG.

Timely liquidation of entries and validation of claimants' costs and production were not transferred to OF-NFC.

Special accounts were established at the beginning of the program and remain in place and properly utilized. However, due to current system limitations, CBP must make manual adjustments to the balances in these accounts to determine the actual amounts available for disbursement. This limitation will exist until full implementation of the new Automated Commercial Environment (ACE) system.

*Question.* How much was spent in fiscal years 2002–2004 to administer the program? What is the estimated cost for fiscal year 2005?

*Answer.* All disbursements for 2003, which were not restricted by pending litigation, were processed within the allotted time. We expect to meet the time requirements for 2004 and future years.

Checks are sent to the addresses on the claims submitted to us. If the claimants or their attorney inadvertently include the wrong address, we have no way of knowing that.

The Office of Finance, National Finance Center processes the disbursements. The actual checks are issued by Treasury's Financial Management Service based on NFC certifications.

Actual costs for administering the program were not separately collected for fiscal year 2002–2004, but are estimated to have increased from approximately \$500,000 in the first year to approximately \$1.2 million for 2004, and to an estimated \$1.8 million for 2005. The increase year by year is due to the increased complexity and size of the program.

*Question.* What mechanisms are being used currently to ensure that, when Commerce issues liquidation instructions to Customs, the liquidations are timely made? There have been reports of numerous cases recently involving Customs' failure to liquidate timely and, as a result, the agency fails to collect duties lawfully owed.

*Answer.* CBP meets biweekly with Commerce concerning operational issues related to dumping. These meetings address issues that include the mechanisms and procedures by which liquidation instructions are transmitted by Commerce to CBP.

An inventory of all unliquidated entries is created on a regular basis and these entries are compared to liquidation instructions that CBP has received from Commerce. Instances identified by CBP where entries are being held but for which specific liquidation instructions do not appear to have been issued are provided to Commerce for their research and action.

*Question.* What mechanisms are being used currently to ensure that, when bills are sent to importers, they are paid? The trade community hears, unfortunately, that in many instances there is little or no follow-up by Customs on outstanding bills. Even if single entry bonds are required by Customs and proper proof of their existence is received by Customs, it is still important that the bills be collected because it is the importers who are required to pay, and if Customs merely expects to collect from bonding companies, two things result: (a) the amount of duties collected may be severely less than what is actually due and (b) the bonding companies may themselves be unable to pay if their exposure goes beyond their risk planning.

*Answer.* CBP takes the following actions to collect delinquent bills from importers:

- Monthly bills are issued and interest is assessed against an importer of record on unpaid billed amounts;
- Refunds scheduled for payment to an importer of record are offset against open delinquent bills owed by that importer;
- Sanctions are administered against an importer of record, that require payment of duties on merchandise currently being imported before the release of merchandise into the commerce of the U.S. permitted;
- Formal demand for payment notices are issued and collection litigation actions are taken against any surety with a bond contract covering respective delinquent duty liability amounts; and
- Litigation actions are taken against delinquent importers of record on any amounts remaining unpaid.

#### NOTICE AND PROTEST PROCESS

Bills issued to importers of record are not delinquent until protest period authorized by law has expired or an applicable protest has been denied. Throughout the collection process, monthly bills are issued to the importer of record and in addition a formal office of any billed amount covered by surety bonds that remain unpaid are issued to the applicable surety. The importer of record can legally challenge their bill, thus aggressive collection efforts do not commence at this stage of the process until at least 90 days from the respective entry liquidation date has passed (19 USC 1541). If protest is filed, no aggressive collection action is taken until a

final resolution of the protest. A surety may also file protest. On average, 45 percent of duty bills issued are protested. Interest charges are assessed throughout the billing process.

#### AGGRESSIVE COLLECTION AGAINST DELINQUENT ACCOUNTS

When protest is filed, in addition to regular monthly billing notices, dunning letters are sent to the importer of record demanding payment. When a protest is not filed or denied, additional dunning letters are sent to the applicable surety with appropriate background documents (CF 7501 (formal entry), liquidation worksheets, etc.) as a follow up to the monthly Formal Demand on Surety for Payment of Delinquent Bills (612 Report). During any period of delinquency, refunds payable to an importer of record are used to offset the delinquent debt they owe. Importers with delinquent bills are sanctioned, and accordingly must pay duties owed on current imports before the release of merchandise into the commerce of the United States is permitted. A surety bond serves as an additional security in the event that an importer goes out of business, files for bankruptcy or otherwise fails to timely a pay delinquent amount owed.

#### JOINT CUSTOMS AND BORDER PROTECTION AND IMMIGRATION AND CUSTOMS ENFORCEMENT

##### OVERSEAS OPERATIONS INTEGRATION

*Question.* I have heard various reports of how the division of labor of formerly independent components now merged into DHS is working. While the melding of functions is proceeding apace stateside, the same personnel have no clear guidance as to how they are to operate overseas. Who is in charge of your agencies overseas? Does it vary from country to country? Does it make sense to have international affairs offices in both agencies? Do the operational and informational stovepipes, currently being eliminated here at home, still exist overseas? If so, what steps are each of you taking to eliminate them?

*Answer.* The Office of the Secretary has initiated a detailed review of the role of DHS overseas, including the management structure that best advances the full range of the international liaison, enforcement, inspection and services missions of DHS.

##### UNMANNED AERIAL VEHICLES

*Question.* The CBP budget includes a request of \$10 million for testing and development of a UAV program. At the same time, I understand that ICE has been using its own funds to test the possible deployment of a series of UAVs along the Northern and Southern Borders to provide real time intelligence to inspectors and agents in the performance of their duties. What are the unique needs of each agency that would necessitate the need for development of two separate UAV programs?

*Answer.* The Coast Guard operates primarily in the maritime domain along the coast and well offshore; the Border Patrol operates close to the border, between the ports of entry both in the maritime and terrestrial domain, but primarily in the terrestrial domain; and AMO operates in both areas but has additional requirements (e.g., airspace security) within internal airspace. Some overlap in geographical and mission requirements exists, and DHS is working to minimize those. All operations that support border security require a detection capability, and because of the operating environment, the platforms that provide that detection capability may need to be different in order to best meet the mission requirements. Therefore it makes sense that each component, as well as Science and Technology, be involved in the testing of UAVs.

*Question.* How do these programs relate to one another and would not the Department's interests be best served by a joint program or one program which would meet the needs of both agencies (as well as potentially other DHS entities)?

*Answer.* BTS and the Science and Technology (S&T) Directorates co-chair the working group that coordinate each components plans regarding use and testing of UAVs. Through the Joint Requirements Council (JRC) the Aviation Management Council, and the UAV Executive Steering Committee in conjunction with the UAV working group, the Department will ensure that UAVs will be tested, deployed and eventually procured in a way that meets the needs of the Department jointly. The UAV working group is currently participating in an analysis of alternatives (AoA) for aerial surveillance needs within BTS. Once this report is complete we will begin a process to establish a DHS-wide concept of operations (CONOP). The CONOP will identify unique needs and ensure that redundancy and overlaps are minimal and that systems procured and deployed on behalf of the DHS are interoperable. At the

conclusion of the AoA, DHS will also determine the need for UAVs as a permanent asset for its components. It is likely that UAVs could support other current and emerging sensing technologies to monitor the U.S. borders between ports of entry, and their acquisition will be considered and evaluated in terms of cost and performance in view of all the other alternative contemplated.

The data and results obtained in the component-specific deployments and feasibility studies will be shared within BTS, and the U.S. Coast Guard. The evaluations and tests already conducted by ICE/AMO the U.S. Coast Guard have been shared within the context of the working groups.

*Question.* If not, please explain in detail how the Department can justify development of separate programs given limited resources.

*Answer.* A coordinated effort for UAV development and testing is being addressed within the Department of Homeland Security.

#### TETHERED AEROSTATS

*Question.* What is the value of the aerostat system to the DHS interdiction and border security mandate?

*Answer.* At the lower altitudes in which many suspect aircraft operate, the Tethered Aerostat Radar System (TARS) is the main source of data, which the AMO uses to sort targets and determine operational responses. The Tethered Aerostat Radar System (TARS) for Border and Transportation Security (BTS) is a critical component in the interdiction of illicit air traffickers as well as our border security system. It is the only fixed system that provides low-level radar coverage (100–500 feet above ground level) of air targets with altitude, speed, heading, and Identifier Friend or Foe (electronic transponder) capability. The system also provides a platform for radio relay equipment. Without TARS, radar coverage along the southern border of the United States and Puerto Rico is severely diminished. Also, modified TARS are able to provide surveillance of maritime targets in coastal regions and limited land targets. The sea and land capabilities of the system are not being employed.

Today, nearly all of our joint air interdiction efforts in Northern Mexico are directly attributable to TARS. When TARS coverage is not available, BTS (ICE AMO) must rely upon scarce and much more expensive systems in an attempt to fill the resultant surveillance gaps. Currently, the alternative is to use our airborne early warning (AEW) aircraft (low density/high demand and high cost assets). AEW costs can be 6–14 times higher than the cost per hour of TARS coverage and their availability is limited since they are tasked with missions in the source and transit zones, in addition to other homeland security flights.

*Question.* Has there been an impact from the non-operational status of the Lajas, PR TARS? If so, what are the impacts from the loss of Lajas TARS?

*Answer.* Prior to the shutting down of the Lajas, PR, TARS site, the vast majority of suspect air tracks avoided approaching or attempting to land or over fly the land mass of Puerto Rico, opting instead to transit to Hispaniola to the west and the Virgin Islands to the east.

Since Lajas was the primary tracking sensor for this area, the impact of the loss of its information is difficult to assess. However, until the site returns to operational status, AMO will continue to monitor the changing threat picture through the use of limited tracking information from FAA radar, intelligence assessments, and post-seizure analysis of interdictions.

*Question.* Should this TARS remain in non-operational status, what are the prospects for future drug interdiction efforts in Puerto Rico and the Caribbean? Are there other locations where the aerostats had existed and were removed (i.e. The Bahamas)? What was the impact to drug interdiction resulting from the removal of those assets?

*Answer.* The system's greatest potential would be achieved as a series of TARS sites linked to form a continuous radar detection blanket that reaches 150 miles beyond the U.S. border. Maintaining a complete "radar fence" is imperative for several reasons.

- An effective surveillance system of this type serves multiple national objectives including:
  - Homeland Security—counter illicit traffickers (air, land and sea) and unauthorized border incursions
  - Air sovereignty/Advanced Airborne Early Warning
  - Air Traffic Control, flight safety
- The U.S. Interdiction Coordinator reports:
  - Suspicious air tracks in the CENTAM corridor increased from 50 to 200 in 2003

- Air seizures increased ten-fold in 2003 over the 10-year average
- Maritime successes have forced drug traffickers to alter their methods to air routes.
- The illicit trafficking and unauthorized border incursion threat vectors continually change. Therefore, we need a system that is effective against all threat vectors.

*Question.* There has been some discussion regarding the possible transfer of the aerostat systems from the Defense to Homeland Security departments. Though DOD is the owner of these assets, I understand that DHS is the primary consumer of the intelligence they collect. Do you feel that the Defense Department has adequately considered the needs of DHS, or consulted with you, regarding the continued operation of these aerostats? What is the Department's position on such a future transfer of responsibility of these TARS systems?

*Answer.* DHS believes that this critical system supports homeland security and provides a critical detection and monitoring capability. That mission is a DOD responsibility. Operation of TARS should remain in DOD.

#### CROSS-TRAINING

*Question.* Representatives of the Department of Homeland Security Council (the union comprised of legacy INS employees) reported at a press conference on March 3 that no more than 5 percent of Immigration and Customs enforcement personnel have received cross-training. When does DHS expect to complete cross-training of all existing personnel? What percentage of all needed cross-training is funded in the President's fiscal year 2005 budget proposal?

*Answer.* OI conducted a manual survey the last week of March 2004. At that time 830 Special Agents had completed the cross-training. This accounts for 19 percent of the 4,463 agents targeted for cross-training in this fiscal year. The Automated Class Management System is expected to be on-line shortly. At that time, training statistics will be more readily available.

OI has established a target to complete the cross-training for all non-supervisory Special Agents GS-05 through GS-13 by the end of fiscal year 2004. This cross-training will be accomplished using a train-the-trainer format with initial training being conducted at the Federal Law Enforcement Training Center (FLETC).

Cross-training beyond this priority group will be completed in fiscal year 2005 and will be funded out of base dollars.

#### PAY DISPARITY

*Question.* A pay disparity of a full grade exists between Immigration Special Agents (GS-12) and Customs Special Agents (GS-13). It appears that the new regulations proposed by the Administration would hide this disparity within a pay scale, rather than addressing it directly. Is this correct? If so, what impact is this disparity having on morale within ICE

*Answer.* Issues regarding ICE Criminal Investigator pay parity have been resolved. Over the last year, we gave careful thought to the many variables involved in this matter prior to integrating the new duties of the national security and counter-terrorism mission with the legacy Customs and INS duties. During this time, we submitted proposals to resolve the issues related to this integration to a sample of the CI population and higher level ICE and DHS management to give this sensitive matter the care and consideration it deserved, all of which took time. All ICE CIs will be assigned to the new position descriptions. Employees will be either reassigned at their current grade level or promoted if all eligibility requirements are met with an effective date of May 2, 2004. We believe this action will enhance ICE's ability to fulfill its mission, which in turn can improve morale, productivity and, ultimately, performance of crucial work in national security and terrorism investigations. Based upon this action, all ICE CIs will be similarly situated once the new HR system is finalized and implemented.

#### ASSET FORFEITURE FUND

*Question.* Many of the programs now under the purview of ICE were enhanced by a productive working relationship with the Treasury Forfeiture Fund. This working relationship still exists today. Typically, the agencies that contributed to the fund were able to draw on the same funds to increase mission capabilities in many areas. This process worked well.

I understand, however, that there are plans to cede control of this Fund to the Department of Justice. Are you concerned about losing access to the asset forfeiture fund? What impact would it have on your investigations if your agency were not able to have access to the resources that you have, in fact, contributed to the Fund?

Answer. As you note, the Administration has proposed to consolidation of the Government's Asset Forfeiture Funds within the Department of Justice. Consolidating operation of these funds offers enormous opportunities for efficiency gains and reductions to overhead costs.

If the consolidation proposal is approved by the Congress, DHS will work with the Department of Justice to ensure that its proceeds from the fund are maintained and disbursed appropriately. The Department does not expect the proposed consolidation of the funds and their administration to affect the availability of fund balances or its future proceeds.

*Question.* Is consideration being given to creating a separate/new Department of Homeland Security Asset Forfeiture Fund to which all DHS components would contribute and have access?

Answer. The Administration has proposed to consolidate the government's Asset Forfeiture Funds at the Department of Justice. There is no current Administration proposal to establish a Department of Homeland Security Asset Forfeiture Fund.

## IMMIGRATION AND CUSTOMS ENFORCEMENT

### WORKSITE ENFORCEMENT

*Question.* In its 1997 Executive Summary, the U.S. Commission on Immigration Reform found that "reducing the employment magnet is the lynchpin of a comprehensive strategy to deter unlawful migration." Despite this fact, worksite enforcement has been last on the list of enforcement priorities. According to a Jan. 11, 2004 article published in the San Diego Union-Tribune, arrests of illegal aliens at worksites have dropped from 8,027 in 1992 to 1,254 in 2002, and the number of Notices of Intent to Fine has dropped from 1,063 to 13. The explanation for this drop in enforcement, according to Joe Greene, deputy assistant director of ICE, is that employer sanctions don't work and that they "didn't seem to be making a dent in changing the practices of employers." Does Mr. Greene's statement represent the official policy of the Bush Administration?

Answer. Since September 11, 2001, ICE's worksite enforcement role has gone beyond that of merely reducing the job magnet. It has become a matter of national security. As a measure of its role in national security, the ICE Headquarters Worksite Enforcement Unit (now called the Critical Infrastructure Protection unit) has been aligned under the National Security Division. In the interest of national security, ICE is increasing its worksite enforcement efforts and has instructed its field offices to focus their worksite enforcement investigations on Businesses of National Interest (BNI). ICE defines a BNI as a private or public entity that provides goods or services vital to our national security and economy, or whose infiltration would pose a serious threat to our domestic security.

*Question.* Your proposed \$23 million increase is just a drop in the bucket. Do you believe that the failure to make worksite enforcement a more important priority is one of the reasons that there are between 8 and 11 million aliens illegally present in the United States today? Please provide a list of the number of worksite enforcement actions undertaken each year between 1999–2003.

Answer. There are numerous overlapping factors contributing to the Nation's illegal immigration problem. Worksite enforcement is just one of the immigration enforcement programs that ICE administers. Statistics show that ICE initiated more worksite enforcement/critical infrastructure protection cases during fiscal years 2002 and 2003 than there were in fiscal years 1999 and 2000.

	Fiscal year				
	1999	2000	2001	2002	2003
Cases initiated .....	2,834	1,766	856	3,428	1,547

### BENCHMARKS

*Question.* The ICE budget requests increases for the detention and removal and institutional removal programs. What benchmarks does the agency use to determine the specific benefits which will be achieved through these increases? What performance measures are used to determine the effectiveness of these programs?

Answer. DRO is currently developing a new performance measure to demonstrate the expected outcome of improved IRP management. This measure shows the percentage of IRP removals that had received a final order of removal prior to the completion of the criminal sentences and prior to release into DRO custody. In numer-

ical terms it will be expressed as: number of cases with pre-release final orders/total number of IRP removals.

Reaching 100 percent on this measure would mean that DRO does not have to expend detention resources on IRP cases that are still awaiting a decision from an immigration judge. All IRP cases would already have a removal order when they complete their criminal sentence, and they would only need to be detained by DRO for the time that it would take to arrange and conduct the removal. This would mean a much more efficient use of resources. Because this measure has not been used before, it will be baselined at the end of fiscal year 2004.

Canine Teams Last week, as part of his rail and transit security initiative, Secretary Ridge said that the Department will develop a rapid deployment Mass Transit K-9 program by using existing Homeland Security explosive K-9 resources, including those of the Federal Protective Service.

Once again, it appears that the Department is robbing Peter to pay Paul. It appears that the Department will be pulling K-9 teams away from airports and the protection of Federal buildings and using them for mass transit, thus degrading security in one transportation mode to begin beefing up security in another mode. By refusing to seek additional funds to address this very real threat it truly calls into question the seriousness of this Administration in its effort to secure the homeland.

*Question.* Does the initiative announced last week mean that you will be pulling existing K-9 teams away from protecting Federal buildings or from airports to use them for rail and mass transit security?

Answer. In support of Department of Homeland Security (DHS) efforts to strengthen rail and transit security, the Federal Protective Service was tasked to develop a plan for ensuring the availability of Explosive Detector Dog (EDD) support, if and when required. The intent of the initiative is to be ready to surge EDDs to an area needing heightened security if that becomes necessary. The law enforcement elements of the DHS have established EDD capability in support of their primary missions. Most of these elements maintain existing cooperative relationships with the state, local, and transit authorities within their local jurisdictions whereby they participate in joint training exercises, share information, and respond to requests for support and assistance on an ad hoc basis. The plan for the EDD-RDF builds upon these existing relationships and expands it to ensure that DHS EDD support is available to all jurisdictions across the Nation. The mission of the EDD-RDF will be to provide expanded capability to mass-transit systems within the United States by assisting State, local, and transit authorities in the event of an increased threat situation. The EDD-RDF is designed to enhance security and explosive detection capabilities, as well as to provide a strong psychological deterrence to terrorist activities. The RDF consists of existing DHS EDD assets, and will be available 24-hours a day, 7-days a week. The EDD teams should be able to deploy to any location within the United States within 24 hours. Deployments will be based on specific intelligence developed within the DHS, response to specific requests for augmentation, or actual incidents.

#### LIMITED IMMIGRATION ENFORCEMENT RESOURCES

*Question.* Your budget request for fiscal year 2005 represents a more than 9 percent increase over the funding level provided by Congress for this year. While this is a step in the right direction, the fact remains that limited budget resources constrain you in the various types of activities your personnel can take to enforce existing immigration laws—much less implement a sweeping alien amnesty law such as the President has suggested. It calls into question the importance the Administration places on immigration enforcement.

I realize that your budget requests incremental increases in programs such as institutional removal, fugitive operations, alternatives to detention, worksite enforcement, compliance teams, and benefit fraud operations. But these increases are not sufficient.

I do not know what the budget resolution's topline discretionary spending level will be, nor do I know what allocation this Subcommittee will receive. However, if we were able to find additional resources for immigration enforcement, where would you suggest we provide additional funds?

Answer. The President's fiscal year 2005 Budget provides sufficient resources for immigration enforcement by more than doubling the number of worksite investigations currently performed by ICE.

#### CHIMERA

*Question.* The Enhanced Border Security and Visa Entry Reform Act requires all immigration databases to be made interoperable and, eventually, combined into the



Chimera data system, which is to include all known immigration, law enforcement, and intelligence data on aliens. What progress has been made thus far on creating the Chimera data system? What roles are ICE and DHS playing in this process? Which agency has the lead in ensuring that the Chimera system is created?

Answer. On the 28th of October 2002 the former Immigration and Naturalization Service published an informational document regarding a comprehensive information technology planning and infrastructure modernization program called "Atlas". That document was entitled the "Atlas Business Case" and provided a concise high-level view that demonstrated the INS' confidence in Atlas' strategic, technical, and financial merits. The business case reflected investment principles, emulation of industry best practices, and compliance with the Clinger-Cohen Act of 1996, as well as with other related legislative and government guidance.

Consistent with the urgencies of the Government's post-September 11 security agenda, the Atlas Business Case was subsequently socialized and promoted within the Department of Justice and sent to the Hill for budgetary consideration. It was understood that the Atlas Program would be the fundamental IT infrastructure foundation on which INS business applications would operate. In its business case, the former INS illustrated that the successful Atlas transformation strategy would hinge upon a robust IT infrastructure containing a secure, scalable backbone that would support all INS business processes. Atlas, it was shown, would also provide database interoperability at the infrastructure level and support data sharing at the applications level. From the beginning, the Atlas design strategy also supported emerging Department of Homeland Security (DHS) requirements. Unlike the previous environment, Atlas was proposed to reside within an integrated Enterprise Architecture (EA) that would harmonize the following:

- System hardware, including mainframes and servers
- Data services, including data and voice circuits
- Data communication equipment, including servers, switches, local area networks (LAN), wide area networks (WAN), routers, and cabling
- Computer security, information assurance activities and enterprise information. This, specifically, is the area that would later come to be identified as the focus area for the suggested Chimera project.
- Workstations, including personal computers and laptops and enterprise-wide software (i.e., office automation, e-mail, operating system, etc.)
- Operational support to maintain and operate the modernized IT infrastructure

Perhaps in contemplation of partitioning and re-tasking of the former INS and its resources, or perhaps in calculating the initial complexity and cost of implementing Atlas, a counter-suggestion was made in committee and transmitted back to the Department of Justice and the former INS that certain specific information security and assurance attributes of Atlas could be separately expedited and put into action under a new initiative tentatively labeled "Chimera".

However, other program initiatives under way at former INS and the new Department of Homeland Security were also addressing the same security concerns. In particular, the "US VISIT" program had pursued the same set of concerns and an active, high-precision approach for addressing critical information security and assurance requirements.

Because of the US VISIT Program's ongoing and comprehensive approach to information security and assurance requirements within the DHS sphere of immigration-related operations, Chimera has been suspended and is being revisited to determine its potential as a duplicative effort.

#### ALIEN REMOVALS

*Question.* Please compare criminal and non-criminal alien removals from 1990–2003.

Answer:

#### *Removals: Criminal and Non-criminal*

The following data were collected in the Deportable Alien Control System (DACS). These data include expedited removals. The criteria for categorizing criminal/non-criminal and the data system used to capture the data have been consistent since fiscal year 1993. Prior to fiscal year 1993 the criteria were slightly different. In addition, multiple data systems were used to collect the data and not all those data systems supported the 1993+ criteria (see separate table below).

Fiscal year	Total removals	Criminal removals	Non-criminal removals
1993 .....	42,542	29,458	13,084

Fiscal year	Total removals	Criminal removals	Non-criminal removals
1994 .....	45,674	32,512	13,162
1995 .....	50,924	33,842	17,082
1996 .....	69,680	38,015	31,665
1997 .....	114,432	53,214	61,218
1998 .....	173,146	60,965	112,181
1999 .....	180,948	70,417	110,531
2000 .....	186,056	72,114	113,942
2001 .....	177,818	72,434	105,384
2002 .....	150,237	71,636	78,601
2003 .....	188,292	80,355	107,937

## PRE-FISCAL YEAR 1993 STATISTICS ON CRIMINAL/NON-CRIMINAL REMOVALS

Fiscal year	Total removals	Criminal removals	Non-criminal removals
1990 .....	30,039	8,971	21,068
1991 .....	33,189	14,475	18,714
1992 .....	43,671	20,098	23,573

## ARREST AUTHORITY

*Question.* As part of the 1990 Immigration Act, Congress authorized general arrest authority for all immigration law enforcement officers. INS never developed regulations to implement this authority. Has DHS developed such regulations?

Answer. Yes, ICE issued a memo implementing general arrest authority for the ICE Office of Investigations and Detention and Removal in November 2003.

## WORKSITE ENFORCEMENT

*Question.* The President's budget proposal would increase funding for worksite enforcement by \$23 million. It also proposes the addition of 150 "work certification" positions—a position that does not currently exist. Does the inclusion of this additional funding mean that worksite enforcement will become a higher priority for ICE? What priority will DHS give the nationwide expansion of the workplace verification pilot programs, as passed by Congress late last year?

Answer. Enforcement efforts targeting companies that break the law and hire illegal workers will need to increase in order to ensure the integrity of the temporary worker system. President Bush's Fair and Secure Immigration Reform proposal provides for an enhanced worksite enforcement program, and the \$23 million requested for fiscal year 2005 for worksite enforcement will allow ICE to enhance its worksite enforcement program and provide credible deterrence to the hiring of unauthorized workers. ICE worksite enforcement investigations generally involve a review of company employment records to verify the immigration status of workers and to determine if the employer has committed any violations. ICE special agents also conduct extensive outreach initiatives to educate employers as to their legal responsibilities.

Additionally, the Basic Pilot Program, an automated system administered by USCIS, enables employers to verify the immigration status of newly hired workers. It is currently available in six States but, we understand, will be available to employers in all 50 States by the end of this year. This is a voluntary program and is currently provided at no cost to employers. Information on the Basic Pilot Program is available to the public on the USCIS website.

*Question.* Does the President's budget proposal include sufficient funding to meet the December deadline for nationwide expansion of the pilots? Will the new "work certification" agents work exclusively to enforce employer sanctions? What increase in "Notices of Intent to Fine" can be expected from these 150 positions and the doubling of funding?

Answer. If the new special agent positions are funded and designated for the worksite enforcement program, it is anticipated that they will be used in that capacity. It is difficult at this point to project the increase in Notices of Intent to Fine that will be accomplished by the enhancements due to factors such as the rate at which the new personnel can be hired, trained and deployed. The budget enhancement will enable ICE to place additional emphasis on a traditional worksite enforcement program that offers credible deterrence to the hiring of unauthorized workers

while retaining its focus on a Critical Infrastructure Protection program that has produced national initiatives such as Operation Tarmac and Operation Glowworm.

*Question.* In May 1998, the Commissioner of the INS announced a new internal policy on workplace enforcement efforts. This policy required approval of a written "operation plan" by a District Director, a Regional Director, the Public Affairs Office, and the Community Relations Office before any worksite enforcement operation to arrest "one or more unauthorized aliens" could be undertaken. This policy was reiterated in a memo to field agents at least as recently as Feb. 13, 2002.

Is this policy still in place?

If so, isn't it unlikely that there will be any increase in worksite enforcement, considering the obstacles set up by this policy?

If not, what is the current policy?

*Answer.* No, the old policy is no longer in place. Current policy, which went into effect on July 24, 2003, states that a Special Agent in Charge (SAC) may approve a Worksite Enforcement Operation Plan that targets a Business of National Interest (BNI). A SAC may, at his or her discretion, delegate this authority to an Associate Special Agent in Charge, or Acting. The Chief of the Headquarters Critical Infrastructure Protection unit must approve any worksite enforcement investigation or enforcement operation that targets an employer or entity that is not a BNI.

*Question.* Has someone within DHS been tasked with the job of reviewing all old policies and recommending changes to those that actually deter enforcement?

*Answer.* Old policies are reviewed to assure they contribute to enhancing enforcement rather than hindering it.

*Question.* The State Criminal Alien Assistance Program provides reimbursement to States for the costs of incarcerating alien murderers, rapists, child molesters, drug smugglers and other criminal aliens. The President's budget proposal eliminates all funding for SCAAP.

Is DHS proposing an alternative to States incarcerating these criminal aliens or does it expect the costs of incarcerating criminal aliens to drop dramatically in the next year? And if so, on what basis?

*Answer.* For fiscal year 2005, the Administration proposes significant investments in border control and immigration enforcement efforts. For U.S. Customs and Border Protection (CBP), the President proposes to enhance Border Patrol Surveillance and Sensor Technology by \$64 million for the continued expansion of the Remote Video System along the southern and northern borders thereby increasing the effectiveness of Border Patrol Agents. The expanded system will provide for significantly enhanced detection and monitoring capability between the ports of entry and increase officer safety. In addition, the fiscal year 2005 Budget seeks \$10 million to develop, procure, deploy, and operate a system of unmanned aerial vehicles to support the Border Patrol and other components of CBP.

In addition, the fiscal year 2005 President's Budget proposes enhancements for numerous immigration enforcement efforts of the U.S. Immigration and Customs Enforcement. Funds sought will support enhanced compliance teams, detention and removal efforts, and international enforcement efforts related to immigration and visa security. These efforts will enhance our border security and bolster our ability to enforce our Nation's immigration laws.

#### INVESTIGATIVE EMPHASIS

*Question.* One area of concern that legacy immigration personnel have is whether Customs personnel and issues are dominating the immigration side of the equation in the Bureau of Immigration and Customs Enforcement, so that enforcement of immigration laws is given lower priority than enforcement of customs laws.

What is the number of ICE Special Agents in Charge who are "legacy Customs" personnel? What is the number of ICE Special Agents in Charge who are "legacy INS" personnel?

*Answer.* As of April 27, 2004, there are 27 SAC offices. Assignments are as follows:

- 16 have "legacy Customs" personnel permanently assigned as SACs.
- 3 have "legacy INS" personnel permanently assigned as SACs.
- Of the 8 remaining, the acting supervisors are: 7 "legacy Customs" and 1 "legacy INS".
- Permanent selections in progress: 2 have "legacy Customs" selectees and 1 has a "legacy INS" selectee.

*Question.* What is the number of ICE Senior Executive Service (SES) positions in the Investigations program occupied/encumbered by "legacy Customs" personnel? What is the number of ICE Senior Executive Service (SES) positions in the Investigations program occupied/encumbered by "legacy INS" personnel?

Answer. There are 22 SES positions in the Office of Investigations. Seventeen (17) are filled with “legacy Customs” personnel and 5 are filled with “legacy INS” personnel.

*Question.* What is the number of ICE GS–15 supervisory positions in the Investigations program occupied/encumbered by “legacy Customs?” What is the number of ICE GS–15 supervisory positions in the Investigations program occupied/encumbered by “legacy INS?”

Answer. As of April 27, 2004, there were 68 GS–1811–15s in the Office of Investigations, 52 of which are “legacy Customs” and 16 are “legacy INS”.

*Question.* What is the number of ICE HQ component or division chief positions in the Investigations program occupied/encumbered by “legacy Customs?” What is the number of ICE HQ component or division chief positions in the Investigations program occupied/encumbered by “legacy INS?”

Answer. There are 5 divisions at Headquarters in the Office of Investigations. Three of those divisions are headed by “legacy Customs” personnel and 2 are headed by “legacy INS” personnel.

*Question.* Some have indicated that “legacy Customs” personnel, particularly in managerial positions, have not diligently attended to their duty to enforce immigration provisions now under the ICE mandate, essentially treating customs as more important than immigration enforcement. What steps are being taken to ensure that former Customs personnel do not neglect their duty to enforce immigration laws?

Answer. In ICE, legacy INS and Customs investigators are being cross-trained to maximize law enforcement authorities and capabilities. This force multiplier is intended to expand the capability of our newly shared authorities in the area of investigations and intelligence. Each individual ICE agent has a responsibility to utilize all of the tools in his/her collective INS and Customs enforcement arsenal to identify, investigate, prevent and deter criminals or terrorists from exploiting vulnerabilities as a means of harming our country.

*Question.* What is the number of 1801-series Detention & Removal Officers in ICE? Whereas the 1801s are responsible for carrying out the administrative enforcement and removal provisions of the immigration code, how are they distributed nationwide? How are they empowered to do their duty more effectively and efficiently using technology and in coordination and cooperation with State and local law enforcement? Answer:

District	Deportation Officer	Immigration Enforcement Agent
Anchorage .....	5	4
Atlanta .....	25	35
Baltimore .....	21	23
Boston .....	32	45
Buffalo .....	21	113
Chicago .....	37	42
Cleveland .....	4	3
Dallas .....	29	46
Denver .....	21	56
Detroit .....	9	8
HQ .....	86	0
El Centro .....	0	11
El Paso .....	35	133
Helena .....	6	12
Honolulu .....	8	9
Harlingen .....	31	130
Houston .....	41	50
Kansas City .....	13	28
Los Angeles .....	84	145
Miami .....	57	178
Newark .....	42	43
New Orleans .....	40	88
New York City .....	59	158
Omaha .....	7	23
Philadelphia .....	35	42
Phoenix .....	51	162
Portland, ME .....	2	4
Portland, OR .....	8	21
San Juan .....	11	42

District	Deportation Officer	Immigration Enforcement Agent
Seattle .....	23	36
San Francisco .....	44	85
San Antonio .....	24	79
San Diego .....	60	222
St. Paul .....	9	16
Washington, DC .....	18	14
Total .....	998	2,106
Grand Total .....	3,104	

DRO is directly involved with State and local law enforcement agencies in the search and apprehension of fugitives. DRO continues to expand the use of technology in an effort to apprehend fugitive aliens. A recent example is providing the officers of the Miami Fugitive Operations Team with Blackberry devices. A Blackberry device will eventually enable Officers to search names in NCIC (criminal history) and the Division of Motor Vehicles. In addition, we are entering into an agreement with the United States Marshals Service to expand our databases. The agreement will allow DRO and the USMS to compare databases on warrants and select and search for fugitives of joint interest. DRO is also planning to purchase laptop computers with wireless modems so Officers can conduct field inquiries. DRO is expanding the use of commercial databases containing biographical information on a person, such as last known address, in an effort to locate and apprehend fugitives.

*Question.* What is the number of 1811-series Special Agent/Criminal Investigator personnel in ICE? How are they distributed geographically? Whereas 1811s are the “detectives” responsible for complex, protracted investigative casework largely dealing with the criminal provisions of the immigration code, how do they coordinate and cooperate with both 1801s and with State and local law enforcement, especially pursuant to cases where State or local officers encounter an alien lawbreaker?

*Answer.* As of April 27, 2004, there were 5,464 special agents assigned to the Office of Investigations, as follows.

Organizational Component	On Board
HQ—Office of Investigations .....	289
SAC Atlanta, GA .....	181
SAC Baltimore, MD .....	78
SAC Boston, MA .....	155
SAC Buffalo, NY .....	109
SAC San Juan, PR .....	128
SAC Chicago, IL .....	312
SAC Dallas, TX .....	139
SAC Denver, CO .....	109
SAC Detroit, MI .....	175
SAC El Paso, TX .....	220
SAC Houston, TX .....	206
SAC Los Angeles, CA .....	389
SAC Miami, FL .....	335
SAC Newark, NJ .....	143
SAC New Orleans, LA .....	221
SAC New York, NY .....	382
SAC St Paul, MN .....	96
SAC San Antonio, TX .....	315
SAC San Diego, CA .....	330
SAC San Francisco, CA .....	260
SAC Seattle, WA .....	216
SAC Tampa, FL .....	177
SAC Tucson, AZ .....	143
SAC Phoenix, AZ .....	95
SAC Washington, DC .....	108
SAC Philadelphia, PA .....	107
SAC Honolulu, HI .....	46
TOTAL .....	5,464

A key objective of DHS and ICE is to share information with our State and local partners in law enforcement that contributes directly to the security and safety of the United States and the American people. The Law Enforcement Support Center (LESC) in Vermont is the vital DHS and ICE point of contact with the entire law enforcement community and is on the cutting edge of the Federal effort to share critical enforcement information with state, county, local and even international law enforcement officers. It is a national, single point of contact, law enforcement center that provides timely immigration status and identity information and real-time assistance to local, state and Federal law enforcement agencies on aliens suspected, arrested or convicted of criminal activity. The primary user of the LESC continues to be State and local law enforcement officers seeking information about an alien encountered in the course of their daily duties.

*Question.* Is ICE requiring both legacy Customs and legacy INS enforcement personnel to attend cross-training programs? What percentage of legacy Customs vs. INS personnel has actually completed such training? Does ICE intend that all enforcement personnel will undergo such cross-training, and if so, when is it expected to be completed?

*Answer.* Yes, all OI Special Agents will be cross-trained in both legal and investigative blocks of instruction.

OI conducted a manual survey the last week of March 2004. At that time 830 Special Agents had completed the cross-training. This accounts for 19 percent of the 4,463 agents targeted for cross-training in this fiscal year. Of the 830 who have completed the cross-training, 57 percent are legacy immigration agents and 43 percent are legacy customs agents. The Automated Class Management System is expected to be on-line shortly. At that time, training statistics will be more readily available.

OI has established a target to complete the cross-training for all non-supervisory Special Agents GS-05 through GS-13 by the end of fiscal year 2004. This cross-training will be accomplished using a train-the-trainer format with initial training being conducted at the Federal Law Enforcement Training Center (FLETC).

Cross-training beyond this priority group will be completed in fiscal year 2005.

#### QUESTIONS SUBMITTED BY SENATOR PATRICK J. LEAHY

*Question.* Mr. Bonner, Mr. Garcia, there is now a hiring freeze in place at both your agencies, as well as at Mr. Aguirre's agency, and I understand you are facing a budget shortfall of more than 12 percent. It is outrageous to hear about a hiring freeze in critical national security agencies after the Bush Administration has strongly opposed attempts by the Ranking Member and many many others in Congress to increase funding for DHS. How could this have happened, and what funding does Congress need to provide so you can at least replace law enforcement agents who resign from your agencies?

*Answer.* The budgets for our agencies have increased substantially since fiscal year 2001 and we are not facing a budget shortfall. As a result of budget reviews of our agencies and the Department, we supported a hiring freeze as a prudent measure in the face of uncertainties in budget allocation and adjustments in fee collection forecasts.

The Department established a review team composed of staff from the CFO's Office, BTS, CIS, and the Coast Guard to assess the situation. The review team engaged in a detailed budget reconciliation effort among the three Bureaus. The team examined the allocation of resources and services throughout the three Bureaus, and this effort resulted in an immediate internal realignment of \$212 million. A subsequent internal realignment of approximately \$270 million is possible, pending additional discussions and coordination of the final documentation and billing.

The Congress has recognized that funds may need to be realigned between ICE, CBP, and CIS. In the Joint Explanatory Statement (H. Rpt. 108-280) accompanying the Department of Homeland Security Appropriations Act, 2004 (Public Law 108-90), the Congress recognized that the budgetary resources may need to be realigned. Specifically, the Congress noted: "The conferees are aware that the Department is conducting a comprehensive review of administrative and other mission responsibilities, particularly as they affect ICE and other agencies that have inherited multiple legacy missions. While funding provided by this conference agreement is based on the best possible information available, the conferees understand there may be a need to adjust funding to conform to the decisions resulting from the review." A similar statement was included under the heading discussing CBP.

Over the past year, these three Bureaus have undergone major, successful reorganizations by incorporating programs, staff, and resources from legacy programs at the Immigration and Naturalization Service and the Customs Service (as well as the

General Services Administration and the Department of Agriculture) and a realignment of functions to strengthen the security of the Nation. Through this process, which included successful reassignment of over 50,000 employees from the legacy agencies, robust hiring continued to ensure adequate staffing to accomplish mission objectives. However, the transformation effort has not been without challenges and each Bureau continues to integrate everything from budgets to uniforms to Standard Operating Procedures in virtually every area. We have made great progress to date.

During a review of the status of execution of the fiscal year 2004 budget, the ICE and CBP determined that implementation of hiring restrictions was a prudent managerial measure not just to stay within 2004 appropriations, but for mission-related objectives. CIS had already instituted hiring restrictions since the beginning of the year due to lower than anticipated fee projections. Additional focus was, and is required to work through funding realignments related to the establishment of the three new Bureaus. This work recognized the tremendous effort of the Administration and the Congress to establish the Department but also acknowledged that some of the finer details on funding and provision of support services required negotiations and reconciliation between the three Bureaus. The work has been on-going, but agreements have been recently reached to realign funds to cover costs of services incurred by the Bureaus. Formal memoranda of agreement will be implemented between the three Bureaus, which will help ensure that funding is aligned with services rendered.

The Department is committed to the security of the Nation and we will continue to work towards successful establishment of the three Bureaus, CBP, CIS, and ICE. To that end, we will continue to work with the Congress, in particular through the appropriations process, to ensure that funds are aligned to mission objectives consistent with Congressional intent.

*Question.* Mr. Garcia, I am pleased that you and other components of the Executive Branch are making such good use of the Law Enforcement Support Center, located in my home State of Vermont—including its role in Operation Predator. The LESC provides information to State and local police departments throughout the Nation, regarding the immigration status and identities of aliens suspected, arrested, or convicted of criminal activity. You joined me in Vermont last August to announce expanded capabilities at the LESC. I look forward to continuing to work with you to ensure that the LESC is as helpful as possible to law enforcement officers throughout our Nation.

At the same time, I want to ensure that adequate funding is available for the LESC to perform its various functions. The President's proposal did not include a specific budget for the LESC, leaving me only to assume that the base budget from this year will be continued in the upcoming fiscal year. Considering the increased demands on the LESC and their expanded capabilities, how will you ensure that the LESC has the resources it needs to perform its vital role of supporting Federal, State and local law enforcement?

*Answer.* All of the new or increased activity levels at the LESC that are contributing significantly to national security and public safety have been accomplished within existing resources. ICE has clearly recognized the value of the LESC as demonstrated by the steps taken to increase productivity and is determined to expand the role of the LESC not only within the broader law enforcement community, but also within DHS and ICE.

In order to ensure the LESC is properly positioned to address its expanding workloads and roles within the law enforcement community, ICE conducted a detailed analysis of current and projected operational requirements and the resources that would be necessary to assure their continuation and expansion. That analysis, which included examination of staffing, facility and other resource needs, resulted in a comprehensive, strategic document. Some of the recommendations have already been implemented or are in the planning or implementation process.

*Question.* Mr. Aguirre, the President's budget proposes a 40 percent cut in the amount of directly appropriated funds for the Bureau of Citizenship and Immigration Services (CIS), from the nearly \$235 million appropriated for the current year to \$140 million for fiscal year 2005. At the same time, the President has proposed a guest worker program that would significantly increase the CIS workload.

Why is the President proposing a 40 percent cut in an agency whose workload he wants to increase dramatically?

*Answer.* The President's fiscal year 2005 Budget is not proposing a cut in the USCIS budget. In fact, the President's budget includes a \$300 million increase over last years levels, including an additional \$60 million in discretionary funding towards backlog reduction efforts aimed at achieving a 6-month processing time for all immigration benefit applications by fiscal year 2006.

The President's fiscal year 2005 budget reflects the recent changes by USCIS to adjust its fee schedule. This fee adjustment includes amounts for administrative support services (\$155 million) previously funded through appropriated funds (tax dollars). Thus, this proposal has no impact on the USCIS budget except for the fact that the funding source for these services will be by way of fees versus tax dollars. With the exception of the \$140 million in appropriated backlog reduction funds, USCIS will be a wholly fee-funded agency in fiscal year 2005.

Beginning in fiscal year 2002, USCIS has been receiving a total of \$100 million in funds for backlog reduction to achieve the 6-month processing time. The \$100 million is made up of \$80 million in appropriated funds and \$20 million in premium processing fees. The President is proposing a 60 percent increase for backlog reduction efforts in fiscal year 2005, bringing the total backlog reduction funds from \$100 million to \$160 million (\$140 million in appropriated funds and \$20 million from the premium processing fees).

*Question.* Speaking of the guest worker program, I wrote to the President in January and asked him to submit a legislative proposal to Congress that would implement his plan. As you know, we have a short legislative year ahead of us, but I have still not received a response. Are the media reports suggesting the President has shelved his guest worker program accurate? If not, why has he not submitted proposed legislation? Will he do so?

*Answer.* On January 7, 2004, the President announced principles in creating a new temporary worker program that would match willing foreign workers with willing U.S. employers when no Americans can be found to fill the jobs. We look forward to working with Congress to develop legislation that incorporates the best ideas for the American worker and our foreign visitors. Through the principles outlined by the President, the best course to the end goal of opportunity, security, safety, compassion, jobs and growth can be achieved.

*Question.* President Bush has promised to reduce the average wait time for applicants for immigration benefits to 6 months by 2006. In light of that goal, and the increased burden the President would place on the CIS through the guest worker program, why did the President's not seek increased funds for backlog reduction?

*Answer.* As stated above, the President is proposing a 60 percent increase for backlog reduction efforts in fiscal year 2005, bringing the total backlog reduction funds from \$100 million to \$160 million (\$140 million in appropriated funds and \$20 million from the premium processing fees).

*Question.* Mr. Aguirre, I have joined with many other Senators in writing to Secretary Ridge and opposing the potential outsourcing of 1100 Immigration Information Officers (IIOs). My colleagues and I believe that these IIOs perform important work—including background checks on applicants for immigration benefits—that we should not be delegating to the private sector, especially at a time of continuing threats of terrorism. (A) As the supervisor of these IIOs, do you believe they are performing their jobs well? (B) Do you believe they should be replaced by private contractors?

*Answer.* Many IIOs individually do an excellent job. But we have a very significant customer challenge that we have yet to meet. INS was known for long lines, and lengthy waits at its local offices, and was not considered particularly responsive to written correspondence. Clearly we need to make some changes. USCIS has already started the process with expansions of our toll-free call center services, case status on-line, InfoPass appointments, and initiatives to reduce lines and improve customer service. Introducing an element of competition through the A-76 process should further stimulate innovation and improvements, with the current workforce being one of the competitors in this process.

*Question.* Mr. Garcia, I have supported and helped to obtain funding for Legal Orientation Proceedings for immigration detainees, with the view that the immigration system works better for all parties when detained aliens are informed as to whether they have a legitimate legal case to stay in the United States. Congress appropriated \$1 million for orientation proceedings in fiscal year 2003, but DHS has still not transferred that money to the Executive Office for Immigration Review so the proceedings can take place. Can you tell me when that money will be transferred, and why it has taken so long?

*Answer.* The Department of Homeland Security (DHS) appreciates the attention and funding Congress has appropriated annually to fund the Legal Orientation Program for Immigration Detainees. As you know, the former Immigration and Naturalization Service (INS) was abolished on February 28, 2003, shortly after the fiscal year 2003 Appropriations was signed into law on February 20, 2003. One of its successor agencies, the U.S. Immigration and Customs Enforcement (ICE), began to manage the funding appropriated for the Legal Orientation Program. Late in fiscal year 2002, the former INS transferred \$1 million to the Executive Office for Immi-



gration Review (EOIR) for the Legal Orientation Program. However, this transfer was not made in fiscal year 2003. Also, throughout fiscal year 2003, EOIR had fiscal year 2002 funding available to use for their Legal Orientation Program. In fiscal year 2004, ICE has transferred \$1 million to EOIR for the Legal Orientation Program, under a reimbursable agreement that was signed on February 2, 2004.

#### CONCLUSION OF HEARINGS

Senator COCHRAN. This concludes our scheduled hearings on the President's fiscal year 2005 budget request for the Department of Homeland Security. I appreciate the cooperation and assistance of all members of the subcommittee, especially the distinguished Senator of West Virginia, my friend, Senator Byrd, as well as the dedicated hard work of the staff of this subcommittee.

The hearing is recessed.

[Whereupon, at 12:15 p.m., Tuesday, March 30, the hearings were concluded, and the subcommittee was recessed, to reconvene subject to the call of the Chair.]